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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES

REPORT OF THE FIFTEENTH SESSION OF THE SUB-COMMISSION
ON PREVENTION OF DISCRIMINATION AND PROTECTION OF
MINORITIES TO THE COMMISSION ON HUMAN RIGHTS

New York, 14 January to 1 February 1963

Rapporteur: Mr. Voitto SAARIO

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I. ORGANIZATION OF THE SESSION

Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its fifteenth session at the Headquarters of the United Nations New York, from 14 January to 1 February 1963.
2. Mr. José D. Ingles, Chairman of the Sub-Commission at its fourteenth session, opened the fifteenth session on 14 January 1963 (378th meeting).

Representation at the session

3. The following members of the Sub-Commission, or alternates, attended:

Mr. Morris B. Abram	(United States of America)
Mr. C. Clyde Ferguson (Alternate)	
Mr. Mohamed Ahmed Abu Rannat	(Sudan)
Mr. Peter Calvocoressi	(United Kingdom of Great Britain and Northern Ireland)
Mr. Francesco Caportorti	(Italy)
Mr. José D. Ingles	(Philippines)
Mr. Boris S. Ivanov	(Union of Soviet Socialist Republics)
Mr. Pierre Juvigny	(France)
Mr. Jean Marcel Bouquin (Alternate)	
Mr. Wojciech Ketrzynski	(Poland)
Mr. Arcot Krishnaswami	(India)
Mr. Franz Matsch	(Austria)
Mr. Voitto Saario	(Finland)
Mr. Hernán Santa Cruz	(Chile)

4. One member of the Sub-Commission, Mr. Gabino Fraga (Mexico) informed the Secretary-General that for reasons of health he was unable to attend the session. Mr. Morris B. Abram was unable to attend certain meetings of the Sub-Commission, and, with the consent of his Government, designated Mr. C. Clyde Ferguson as an alternate for those meetings. Mr. Pierre Juvigny was unable to attend certain meetings of the Sub-Commission and, with the consent of his Government designated Mr. Jean Marcel Bouquin as an alternate for those meetings. The Secretary-General was in full agreement with these nominations and the alternates therefore enjoyed during the session the same status as members of the Sub-Commission, including the right to vote. The Sub-Commission noted with regret the death of Mr. Charles D. Ammoun (Lebanon), and paid tribute to his memory (E/CN.4/Sub.2/SR.378 and 383).

5. Observers from the Governments of Canada, India, Israel, Lebanon, the Netherlands, Syria and the United States of America attended the session.

6. The following representatives of specialized agencies were present at various meetings of the session:

International Labour Organisation

Mr. H. Reymond
Mr. L. Segovia

United Nations Educational, Scientific and Cultural Organization

Mr. H. Saba
Mr. A. Salsamendi

7. The following authorized representatives from non-governmental organizations in consultative status were present as observers:

Category A

International Confederation of Free Trade Unions (Mr. Paul Barton); World Federation of Trade Unions (Mr. Philip M. Connelly); World Federation of United Nations Associations (Mr. Hilary Barrett-Brown, Mrs. Oliver Weerasinghe); World Veterans Federation (Mr. Gisbert Flanz, Miss Emily Nichols).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); CARE (Mr. Selz Swarn);
Catholic International Union for Social Service (Mrs. Carmen Giroux,
Mrs. Allys Vergara); Commission of the Churches on International Affairs
(Mr. A. Dominique Micheli); Consultative Council of Jewish Organizations
(Mr. Moses Moskowitz); Coordinating Board of Jewish Organizations
(Mr. Lobel A. Katz, Mr. William Korey); Friends World Committee for Consultation
(Mr. Cecil R. Evans, Mrs. Nancy Smedley); International Alliance of Women
(Mrs. Frances A. Doyle); International Catholic Child Bureau
(Miss Margaret M. Betard, Mr. Jules Gagnon); International Catholic Migration
Commission (Irene Dalgiewicz); International Catholic Press Union
(Mr. Hugh Morley); International Conference of Catholic Charities
(Mr. Louis Longarzo); International Council of Women (Mrs. Craig Schuller);
International Federation of University Women (Miss Dorothy V. Weston);
International Federation of Women Lawyers (Mrs. Rose Korn Hirschman,
Miss Anna R. Kumin, Mrs. Rose Rothenberg); International League for the Rights
of Man (Mr. Roger Baldwin, Mrs. Dora D. Roitbard); International Social
Service (Mr. Michael Harris); International Union for Child Welfare
(Miss Frieda S. Miller); International Union of Family Organizations
(Mrs. Elizabeth S. Collins); Nouvelles Equipes Internationales - International
Union of Christian Democrats (Mrs. Ana Victoria Carranza, Mr. Pelaez del Casal,
Mr. Janusz Sleszynski); Pax Romana (Mr. Peter J. Cass, Mr. J. Kirchner);
Salvation Army (Mr. Chester R. Brown); Women's International League for Peace
and Freedom (Mrs. Adelaide N. Baker, Mrs. E. Picon, Mrs. Ada Wardlaw);
World Alliance of Young Men's Christian Associations (Mr. Dalton F. McClellanad);
World Federation of Catholic Young Women and Girls (Miss Pauline Turner);
World Jewish Congress (Mr. Natan Lerner, Mr. Maurice C. Perlzweig); World Young
Women's Christian Association (Mrs. Arthur F. Anderson, Mrs. Roland Beattie);
World Union of Catholic Women's Organizations (Miss Catherine Schaefer);
World Union for Progressive Judaism (Mrs. V. Polstein).

Register

International Humanist and Ethical Union (Mrs. Walter M. Weis); St. Joan's International Alliance (Miss Frances McGillicuddy).

Secretariat

8. Mr. John P. Humphrey, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward Lawson acted as Secretary of the Sub-Commission.

Election of officers

9. The Sub-Commission, at its 378th meeting, unanimously elected Mr. Arcot Krishnaswami (India), Chairman; Mr. Wojciech Ketrzynski (Poland), Vice-Chairman; and Mr. Voitto Saario (Finland), Rapporteur.

Meetings, resolutions and documentation

10. The Sub-Commission held twenty-seven plenary meetings. The views expressed by members of the Sub-Commission at those meetings are summarized in documents E/CN.4/Sub.2/SR.378-404.

11. In accordance with rule 75 of the rules of procedure of the functional commissions of the Economic and Social Council, the Sub-Commission granted hearings at various meetings (E/CN.4/Sub.2/SR.380, 382, 383, 384, 385, 387, 389, 402, 403) to the representatives of the following non-governmental organizations:

Category A

International Confederation of Free Trade Unions (Mr. Paul Barton); World Federation of Trade Unions (Mr. Philip M. Connelly).

Category B

Agudas Israel World Organization (Mr. Isaac Lewin); Coordinating Board of Jewish Organizations (Mr. Lobel A. Katz); International Catholic Child Bureau (Mr. Jules Gagnon); International Federation of Women Lawyers (Mrs. Rose Korn Hirschman); International League for the Rights of Man (Mr. Roger Baldwin); International Union for Child Welfare (Miss Frieda S. Miller);

Category B (continued)

Women's International League for Peace and Freedom (Mrs. Adelaide N. Baker);
World Jewish Congress (Mr. Maurice Perlzweig).

12. Resolutions adopted by the Sub-Commission appear under the subject matter to which they relate. Financial implications of decisions of the Sub-Commission, prepared by the Secretariat, appear in annex I.
13. Documents before the Sub-Commission at its fifteenth session are listed in annex II.

II. AGENDA

Item 2 of the agenda

14. At the 378th meeting, the Sub-Commission considered the provisional agenda (E/CN.4/Sub.2/219/Rev.1) prepared by the Secretary-General in consultation with Mr. José D. Ingles, Chairman of the Sub-Commission at its fourteenth session, and unanimously adopted the following agenda for the fifteenth session:

1. Election of officers.
2. Adoption of the agenda.
3. Invitation to the Commission on the Status of Women.
4. Communications relating to the prevention of discrimination and protection of minorities.
5. Consideration of the future work of the Sub-Commission.
6. Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, as provided in article 13, paragraph 2, of the Universal Declaration of Human Rights.
7. Study of discrimination against persons born out of wedlock.
8. Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission.
9. Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately.
10. Protection of minorities.
11. Draft declaration and draft convention on the elimination of all forms of racial discrimination (General Assembly resolution 1780 (XVII)).
12. Draft declaration and draft convention on the elimination of all forms of religious intolerance (General Assembly resolution 1781 (XVII)).
13. Report of the fifteenth session of the Sub-Commission on Prevention of discrimination and Protection of Minorities to the Commission on Human Rights.

The Sub-Commission decided to give priority to certain items on its agenda in the following order: items 7, 6, 11 and 12.

III. INVITATION TO THE COMMISSION ON THE STATUS OF WOMEN

Item 3 of the agenda

15. At the 378th meeting, the Sub-Commission decided unanimously to invite the Commission on the Status of Women to send a representative to participate in its deliberations when items relating to discrimination based on sex were to be discussed, in accordance with part A (5) of resolution 48 (IV) of the Economic and Social Council. Subsequently, the Commission on the Status of Women was represented by Mrs. Marie-Hélène Lefauchaux (France), who participated in the work of the Sub-Commission (E/CN.4/Sub.2/SR.378, 379, 380, 385, 388 and 389).

IV. COMMUNICATIONS RELATING TO THE PREVENTION OF DISCRIMINATION
AND THE PROTECTION OF MINORITIES

Item 4 of the agenda

16. On 30 January 1963, the Sub-Commission held a private meeting to consider item 4 of its agenda, "Communications relating to the prevention of discrimination and the protection of minorities."
17. The Sub-Commission had before it a non-confidential list of communications (E/CN.4/Sub.2/CR.7), and a confidential list of communications (Sub.2/Communications List No. 12).
18. The Sub-Commission decided to make public the summary record of the private meeting (E/CN.4/Sub.2/SR.403).

V. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION

Item 5 of the agenda

19. At its 403rd meeting the Sub-Commission examined item 5 of the agenda: "Consideration of the Future Work of the Sub-Commission".

20. The Sub-Commission had before it a proposal submitted jointly by Mr. Abram, Mr. Abu Rannat, and Mr. Santa Cruz (E/CN.4/Sub.2/L.297), that it should decide to undertake a study of equality in the administration of justice in accordance with article 10 of the Universal Declaration of Human Rights, and appoint a Special Rapporteur for this purpose.

21. In connexion with this item of the agenda, the Sub-Commission also examined a proposal which had been submitted by Mr. Ivanov (E/CN.4/Sub.2/L.300) for consideration under item 9: "Measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately." The proposal was that the Sub-Commission should decide to undertake a study of measures to be taken for the cessation of any advocacy of national, racial or religious hostility that constitutes an incitement to hatred and violence, jointly or separately, and to appoint a Special Rapporteur for this purpose.

22. The Sub-Commission also had before it a memorandum submitted by the Secretary-General (E/CN.4/Sub.2/222), a statement submitted by the Women's International League for Peace and Freedom (E/CN.4/Sub.2/NGO.27), and a statement submitted jointly by the Consultative Council of Jewish Organizations, the International Federation of Women Lawyers, the International League for the Rights of Man, the Women's International League for Peace and Freedom, the World Jewish Congress, the World Union for Progressive Judaism and the International Humanist and Ethical Union (E/CN.4/Sub.2/NGO/30).

23. Mr. Calvocoressi suggested that, as another possible study, the Sub-Commission might examine the techniques and methods which are proving useful in combating discrimination and in educating public opinion. Mr. Capotorti suggested that the Sub-Commission should study discrimination in respect of the right to freedom of movement and residence within the borders of each State, as proclaimed in Article 13(1) of the Universal Declaration of Human Rights.

24. Some members of the Sub-Commission supported the joint proposal for a study of equality in the administration of justice, and pointed out that the supreme guarantee of non-discrimination is the existence of independent and impartial tribunals as referred to in Article 10. The opinion was expressed that this study should be given priority in view of the fact that the General Assembly had only recently adopted resolution 1779 (XVII), on manifestations of racial prejudice and national and religious intolerance.

25. Some members favoured the proposal of Mr. Ivanov, particularly inasmuch as the Sub-Commission had had a corresponding item on its agenda for many years but had not had the time to examine it in detail. Others, however, recalled that UNESCO had been dealing effectively with measures for the cessation of any advocacy of national, racial or religious hostility for many years, and that it would not be advisable for the Sub-Commission to undertake a new study of this subject without first learning what UNESCO had done and what it plans to do in the future. It was suggested that the Sub-Commission might prepare a list of this and other proposals for future studies and submit them to its superior bodies for approval, with the understanding that each study could only be undertaken when the necessary financial and staff resources became available. The view was expressed that Mr. Ivanov's proposal should be included in the report so that the Sub-Commission would give priority to the question of appointing a Special Rapporteur on this subject at a future session. There was no objection to this view.

26. Mr. Ingles recalled that the Sub-Commission had, at an early session, prepared a list of topics for study and had submitted it to its superior bodies for approval; several of these topics had not yet been studied by the Sub-Commission. He proposed orally that the Secretary-General should be requested to submit to the sixteenth session of the Sub-Commission proposals and recommendations on the Sub-Commission's programme of future work, including not only topics previously approved by the Sub-Commission which have not yet been taken up but also other topics formally proposed by members of the Sub-Commission.

27. The oral amendment by Mr. Ingles to the joint proposal of Mr. Abram, Mr. Abu Rannat and Mr. Santa Cruz was adopted unanimously. The joint proposal, as amended, was adopted unanimously.
28. Mr. Ivanov did not press his proposal to a vote. He expressed the hope that the Secretary-General, in preparing proposals and recommendations on the Sub-Commission's future work, would pay due attention to the importance of eliminating discrimination in respect of the various economic and social rights.
29. The Sub-Commission agreed that item 9 of its agenda would be included on the agenda of its sixteenth session, under the understanding referred to in paragraph 25 above.
30. The resolution adopted by the Sub-Commission reads as follows:

RESOLUTION 1 (XV)^{1/}

FUTURE WORK OF THE SUB-COMMISSION

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering that the study of discrimination with respect to the right of everyone to leave any country, including his own, and to return to his own country, has now been completed and that the study of discrimination against persons born out of wedlock is the only study the Sub-Commission now has in progress,

Desiring to take full advantage of resources which have normally been sufficient to carry forward two studies in the field of discrimination,

Believing that immediate attention should be given to assuring everyone full equality with respect to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. Decides to undertake a study of equality in the administration of justice, in accord with article 10 of the Universal Declaration of Human Rights, and to appoint a Special Rapporteur for this purpose;

^{1/} The financial implications of this resolution are set out in annex I.

2. Requests the Secretary-General to submit to the sixteenth session of the Sub-Commission proposals and recommendations on the Sub-Commission's programme of future work, including not only topics previously approved by the Sub-Commission which have not yet been taken up, but also other topics formally proposed by members of the Sub-Commission.

31. At the 404th meeting, on 1 February 1963, the Sub-Commission appointed Mr. Mohamed Ahmed Abu Rannat as its Special Rapporteur to carry out the study of equality in the administration of justice. It was understood that it would be for the Commission on Human Rights and the Economic and Social Council to approve the decision of the Sub-Commission to undertake the study and to appoint a Special Rapporteur to carry it out.

32. Some members of the Sub-Commission, recalling with regret that discussion of several items of the agenda of the fifteenth session had been hurried and incomplete, proposed that the Economic and Social Council should be requested to arrange for the sixteenth session to be of four weeks' duration, particularly in view of the heavy agenda anticipated for that session. Others, however, expressed the hope that the Sub-Commission would be able to complete the work of its sixteenth session within a three week period.

VI. STUDY OF DISCRIMINATION IN RESPECT OF THE RIGHT OF
EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN,
AND TO RETURN TO HIS COUNTRY

Item 6 of the agenda

Introduction

33. At the 381st to 397th meetings, the Sub-Commission considered item 6 of its agenda, "Study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country".

34. The Sub-Commission had before it a report on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country (E/CN.4/Sub.2/220) drawn up by its Special Rapporteur, Mr. José D. Ingles. The report had been prepared in accordance with resolution 3 (XIV) of the Sub-Commission (E/CN.4/830), and the general directives governing studies of discrimination approved by the Sub-Commission and the Commission on Human Rights.^{1/}

35. The report was divided into six chapters, preceded by an introduction and followed by five annexes. In chapter I, the Special Rapporteur examined article 13 (2) of the Universal Declaration of Human Rights and other articles having a direct and important bearing upon the subject of the study, summarized the history and the use of travel documents, and set out his understanding of the meaning of "discrimination" in respect of the right of everyone to leave any country, including his own, and to return to his country. In chapter II, he examined discrimination occurring on various grounds in respect of the right. In chapters III and IV he considered the application of direct and indirect limitations to the exercise of the right. In chapter V he summarized the general trend and development of relevant legislation and practices and the conclusions he had reached as a result of his study. In chapter VI he submitted proposals for national and international action, including a series of draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and a number of recommendations for action to be taken on the international and national levels.

^{1/} See Official Records of the Economic and Social Council, eighteenth session, Supplement No. 7, para. 377.

36. In introducing his report, the Special Rapporteur pointed out that it was based primarily on the draft report (E/CN.4/Sub.2/L.234) which he had submitted to the Sub-Commission at its fourteenth session. In preparing the final text he had taken into account, as far as possible, the comments and suggestions made by the members of the Sub-Commission in past discussions. In addition, he had expanded the draft report by adding the data made available to him during the past year. The final report had been prepared on the basis of information appearing in ninety "country monographs" (Conference Room Papers 1-90).

37. The report was in a sense a result of the collective effort of the members of the Sub-Commission, not only because he had been guided by their directives but also because many members had offered observations at various stages in the drafting of the report. At the same time, the text of the report was the sole responsibility of the Special Rapporteur. It was for the Sub-Commission, after examining the report, to adopt principles and make recommendations designed to promote freedom and to eradicate discrimination in respect of the right under consideration.

38. References to discriminatory practices in certain countries and territories had been made in the body of the report not in a spirit of criticism but in order to help the Governments concerned to find a means of eliminating such practices. The conclusions in chapter V of the report had been based upon data provided at the request of the Sub-Commission by States Members of the United Nations and of the specialized agencies, and by non-governmental organizations in consultative status.

39. The study indicated, with reference to the existing situation, that scarcely one third of the States Members of the United Nations had recognized the right under consideration in their constitution, laws or jurisprudence. However, it was not necessarily in countries which had officially recognized the right that its observance was ensured. Conversely, the fact that it had not been given statutory recognition in certain countries did not necessarily prevent its being exercised in those countries. Moreover, failure to respect the right resulted more often from historical factors, custom and tradition than from the social philosophy or the ideology of the countries concerned. While the situation was

sometimes aggravated by public apathy in the face of infringements of the right, Governments, in the final analysis, bore the responsibility for violations.

40. Of the various limitations on the right under consideration, the ones which were most difficult to deal with were, in the opinion of the Special Rapporteur, those based on the principle of protecting the interest of the State. That interest could be interpreted in many ways and was sometimes invoked by States as a means of acquiring discretionary powers. He had accordingly proceeded on the understanding that a limitation was valid only when affecting public interest as laid down in article 29 of the Universal Declaration of Human Rights, and had treated as inadmissible and discriminatory any limitations which did not conform to the criteria established in that article.

41. Referring to current trends, the Special Rapporteur indicated that the situation with regard to the right of a national to return to his country was by no means unfavourable, though there was room for improvement; the situation with regard to the right of a foreigner to leave the country in which he resided was more satisfactory, while the situation with regard to the right of a national to leave his country was deteriorating.

42. The Special Rapporteur thanked all who had assisted him in the collection of information and in the preparation of his report.

43. Because the Sub-Commission had already examined, at its fourteenth session, the substance of much of the material in the report, members held only a brief general debate and chapter-by-chapter discussion. This was followed by a detailed examination of the draft principles submitted by the Special Rapporteur. Some members expressed certain views on the Special Rapporteur's recommendations for national and international action, but these were not considered in detail. It was understood that the Sub-Commission would consider these proposals at its sixteenth session. The Sub-Commission adopted a three-part resolution on the report (see para. 141 below) including a series of general principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, a request that the Secretary-General should print and circulate the study, a request that arrangements should be made for attendance of the Special Rapporteur at the nineteenth session of the Commission on Human Rights, and a request that the report and the draft principles

formulated by the Sub-Commission should be transmitted to the technical conference on international travel and tourism to be held in Rome in August-September 1963 in accordance with resolution 870 (XXXIII) of the Economic and Social Council.

General debate and comments on the report as a whole

44. In the general debate, statements were made by members of the Sub-Commission, by the representative of the Commission on the Status of Women (E/CN.4/Sub.2/SR.385, 388 and 389), and by the representatives of various non-governmental organizations in consultative status (E/CN.4/Sub.2/SR.382, 383, 384, 385, 387 and 389).

45. A statement on the study was submitted jointly by the Coordinating Board of Jewish Organizations, the International Catholic Migration Commission, the International League for the Rights of Man, Pax Romana, the Women's International League for Peace and Freedom, the World Union of Catholic Women's Organizations and the International Humanist and Ethical Union (E/CN.4/Sub.2/NGO/28).

46. Members of the Sub-Commission expressed their thanks to Mr. Ingles for the valuable study which he had prepared so conscientiously. He was commended in particular by various members for having dealt with a problem of immense scope in a lucid and subtle manner, and with scholarship, courage and great moderation; for having presented a survey which was informative, educational, and motivated by the author's devotion to the principles of the Charter and the Universal Declaration of Human Rights; and for having put forward bold and constructive solutions.

47. Two members found defects both in the approach of the study and in its substantive recommendations, and maintained that because it had been based upon the incorrect assumption that discrimination in the area examined was primarily an administrative problem which could be corrected by Governments at will, rather than an economic and social problem, its conclusions were likewise incorrect. There was also some discussion as to whether the Special Rapporteur had exceeded his terms of reference in violation of Article 2 (7) of the Charter, and as to whether he had dealt adequately with the situation in non-self-governing territories. It was also emphasized that the Special Rapporteur had to some extent not taken fully into account the comments which had been made at the fourteenth session, and had dealt with certain aspects of the right under study which had no bearing upon the question of discrimination. This had led him to consider questions which normally fell

within the competence of sovereign States. Further, it was said that the Sub-Commission had devoted too much time to this problem.

48. The Special Rapporteur explained that in his view each Government had great latitude in determining what restrictions it might have to impose because of economic conditions, public resources or the international balance-of-payments position; some Governments found it necessary to place more emphasis on economic rights than on civil and political rights, and the problem was to attempt to strike a balance between all rights, rather than to favour one category to the exclusion or detriment of others in violation of article 30 of the Universal Declaration. In that light he felt he had been fully justified in indicating his view that Governments bore the ultimate responsibility for any discrimination in the exercise of the right under study. He did not feel that he had exceeded his terms of reference in any way, inasmuch as the United Nations had for long taken the position that the observance of human rights was a matter of international concern which did not fall within the purview of Article 2 (7) of the Charter. He had considered it undesirable to discuss the problems of colonialism more fully in his report since this subject had been the subject of decisions by many higher United Nations bodies. He wished to invite attention to the fact that the principles adopted by the Sub-Commission in connexion with previous studies dealt not only with non-discrimination but also with freedom in the exercise of the right studied. This was because, on the one hand, full exercise of any right can only be guaranteed by eliminating discrimination, and on the other hand, discrimination can be prevented by ensuring the free exercise of the right.

49. The representative of the Commission on the Status of Women suggested that reference should be made in the report to one additional form of discrimination, which occurred when the father alone was empowered to perform the formalities permitting a minor child to leave his country. She also suggested that, in the preparation of draft principles, specific reference should be made, where appropriate, to matrimonial status, since it was clear that married women were discriminated against when, for instance, they applied for a passport. In reply, the Special Rapporteur pointed out that this matter was dealt with in paragraph 178 of his report.

Comments on particular sections of the report

50. Introduction. In the Introduction, the Special Rapporteur summarized the historical development of the concept of the right of everyone to leave any country, including his own, analysed the present position as regards recognition of the right on the national level, and referred to action which had been taken over a period of years, on the international level, to promote recognition and enjoyment of the right.

51. One member of the Sub-Commission raised an objection to the inclusion in the report of paragraph 12, in which reference is made to the wall "built along the dividing line between the East and West occupation zones of Berlin". He said that this reference distorted the facts and was politically inspired, that it violated the directive of the Commission on Human Rights that material used in the studies should be objective and that this reference was outside the scope of the study which was limited to "States Members of the United Nations and of the specialized agencies". He emphasized that this paragraph had been included without consultation with those concerned, and that its inclusion in the report amounted to a violation of the fundamental principles of the United Nations Charter.

52. Other members, however, maintained that the reference was a necessary part of the historical background, and therefore perfectly legitimate in the context.

53. The Special Rapporteur, for his part, assured the Sub-Commission that the paragraph was not politically inspired, but had been drafted in good faith and without bias, and merely stated an historical fact which he had an opportunity personally to verify. Under his terms of reference he was entitled to use the writings of recognized scholars, as well as material from other sources. This would include facts of his own personal knowledge.

54. Chapter I: Orientation of the study. In chapter I, the Special Rapporteur explained the orientation of the study, and cited the various texts on which it was based.

55. In paragraph 39, the Special Rapporteur stated that "The right enunciated in article 13 (2) may very well be regarded as the right of personal self-determination, a corollary of the right of self-determination of peoples."

56. Some members questioned the advisability of drawing such a parallel, since the right of self-determination of peoples was a fundamental political principle while

the right of everyone to leave any country, including his own, and to return to his country, had few political aspects and was not derived from the right of self-determination. Some urged that the wording of paragraph 39 should be changed and brought into line with that of the Universal Declaration of Human Rights, which does not accord a priority to any particular right. Some, however, supported the Special Rapporteur's statement, explaining that any restrictions upon the right of freedom of movement might result in restrictions upon the right of self-determination of peoples.

57. The Special Rapporteur explained that he had not intended to equate the right of personal self-determination with the right of self-determination of peoples; and indicated that in view of the misunderstanding which had occurred, he would use the words "which is comparable to" instead of the words "a corollary of".

58. In paragraph 72, the Special Rapporteur stated his view that "Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country can only result from action by a Government or by public authorities ... Since discrimination in this area is normally of the Government's own making, it can be abolished by Governments at will".

59. One member of the Sub-Commission expressed the view that this statement indicated an erroneous approach to the analysis of the problem under study, leading inevitably to incorrect conclusions. He maintained that in view of existing economic and social conditions, wealthy persons and the nationals of wealthy nations were in a better position to enjoy the right to leave their country than persons coming from a less prosperous society. In many countries and territories the principal barrier to the exercise of the right in question was the lack of resources among the people who wished to travel. In his view, government regulation was not discriminatory merely because it affected a part of the population adversely; regulation was in many instances essential, and the study should distinguish between that which was legitimate and that which was discriminatory. Other members, however, supported the Special Rapporteur's statement, pointing out that the distinction between discrimination and de facto inequality had long been recognized by United Nations bodies.

60. Chapter II: Grounds of discrimination. In chapter II the Special Rapporteur summarized the information he had received on discrimination based upon race or

colour, sex, language, religion, political or other opinion, national origin, social origin, property, birth or other status, and the status of the country or territory to which a person belongs.

61. Some members of the Sub-Commission felt that, in the section dealing with "religion", undue emphasis had been given to the question of the emigration of Jews to Israel. The view was expressed by two members that the Special Rapporteur had used distorted information, and had made unfounded allegations about discrimination in countries where in fact there was no discrimination. Objection was raised to the inclusion, in this section in particular, of information which some members did not consider to be strictly factual or objective, submitted by a particular non-governmental organization. The view was also expressed that the matter discussed in some paragraphs of this section was not a question of religion.

62. Other members, however, defended the right of non-governmental organizations to submit material for the Sub-Commission's studies, and to have that material presented to the Sub-Commission in accordance with the established procedures. In their view such organizations should be free not only to submit information but also to criticize the actions of Governments and to do everything within their power, by non-violent means, to change a state of affairs that they considered to be regrettable.

63. The Special Rapporteur, for his part, stated that he had included the material furnished by non-governmental organizations in his report in accordance with his terms of reference, and that all of the material included had first been sent to the Government concerned for its comment and supplementary data. If such comment or data had been received, that too had been included in the report. If no reply had been received, the Special Rapporteur had proceeded on the assumption that the data was correct. The material in question had been placed under the heading "religion" because it would not have been proper to place it under the heading of "race". The heading was, however, unimportant; the important thing was that the restrictions in question had been imposed.

64. The representative of the Commission on the Status of Women thanked the Special Rapporteur for having taken into account the views of her Commission. She pointed out that discrimination in respect of the right under study which arose from the application of principles of family law was within the purview of the study.

65. Chapter III: Direct limitations. In chapter III the Special Rapporteur considered the application of limitations to the right of everyone to leave any country, including his own, and to return to his country, and in particular limitations based upon considerations of national security, public order, health or morals; the interest of the State; legal incapacity, non-performance of legal obligations, knowledge of a trade or profession, passport and visa restrictions, and public emergency.

66. Special importance was attached by some members of the Sub-Commission to the limitations set out in article 29 of the Universal Declaration of Human Rights. It was emphasized that, in accordance with paragraph 3 of this article, the rights discussed may in no case be exercised contrary to the purposes and principles of the United Nations. There was also considerable discussion in the Sub-Commission concerning the suggestion of the Special Rapporteur, in paragraph 151, that the qualifying term "ordre public" should not appear in his proposals, even though it had been included in articles 12 and 14 of the draft international covenants on civil and political rights, on the ground that the entire structure of rights and obligations might collapse as a result of the broad interpretation sometimes given to this concept as the equivalent of "public policy". It was recalled that the insertion of this term was the result of an agreement which had been reached after considerable debate in the General Assembly. The Special Rapporteur, however, indicated that, after considering the arguments in favour of the term, he still preferred the notion of "public order" without the addition in parenthesis of "ordre public", since in that form the term was precise and meant simply the absence of disorder. He expressed the view that the limitations which a Government was entitled to impose upon the exercise of the right of freedom of movement for reasons of public order were procedural only, and should not have the effect of denying the enjoyment of that right.

67. Chapter IV: Indirect limitations. In chapter IV the Special Rapporteur dealt with certain indirect limitations upon the enjoyment of the right under study, including economic measures, the complexity of procedures for obtaining travel documents, and sanctions imposed upon persons who attempt to cross a national boundary without the required travel documents. Administrative, judicial and

legislative remedies available for use when an individual feels that his rights have been denied were summarized.

68. Some members of the Sub-Commission felt that it was incorrect for the Special Rapporteur to maintain (paragraph 202) that special taxes on travel, as well as the high cost of obtaining travel documents, not only inhibit the exercise of the right in question but may amount to a de facto discrimination on the ground of property. In their view fees charged for passports were often of a social nature, making it possible to regulate travel facilities and also making possible the travel of less-favoured citizens, either for tourism or for rest. The Special Rapporteur, in reply, pointed out that special taxes on travel and the high cost of travel documents took on a discriminatory character in cases where they had the effect of preventing an individual from leaving a country when he had legitimate reasons for doing so.

69. Chapter V: Trends and conclusions. In chapter V the Special Rapporteur summarized his views on the general trend and development of legislation and practices in respect to various aspects of the right under study. As regards the right of a national to return to his own country, he stated, the situation is by and large not unfavourable, though there is still much room for improvement. As regards the right of a foreigner to leave the country of his sojourn, the situation is more favourable. But as regards the right of a national to leave his own country, the situation is far less favourable and may be said to be retrogressive.

70. As the views expressed represented the personal opinion of the Special Rapporteur, they did not give rise to much discussion in the Sub-Commission.

71. Chapter VI: Proposals. In chapter VI the Special Rapporteur submitted his proposals for action on the national and international levels. In addition he presented, for consideration and adoption by the Sub-Commission, a series of draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country (paragraph 270). The Sub-Commission examined the draft principles in detail.

72. The Special Rapporteur, at the conclusion of the general debate and the chapter-by-chapter examination of the report, indicated that he would take the views expressed by members of the Sub-Commission into account if called upon, at a later stage, to revise his report.

Examination of the draft principles formulated by the Special Rapporteur

73. The Sub-Commission accepted the proposal of the Special Rapporteur that it should formulate a series of draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, which could be sent forward to superior bodies of the United Nations for consideration and adoption. It took as the basis of its work the draft principles which had been presented by the Special Rapporteur (E/CN.4/Sub.2/220, para. 270), who moved their adoption. Two members of the Sub-Commission however voiced their concern that several of the draft principles had been prepared without due regard for the purposes and principles of the United Nations, and might lead to violation of the sovereignty of States. In this connexion, the Special Rapporteur recalled that when the General Assembly adopted article 13 of the Universal Declaration of Human Rights, it rejected an amendment which would have left the exercise of the right entirely at the mercy of domestic jurisdiction.

74. The Sub-Commission first considered the Special Rapporteur's draft principles, Part by Part, together with the amendments thereto. It then considered proposals for additional principles. Finally, it examined the preamble prepared by the Special Rapporteur, and related amendments. The Sub-Commission took no decision regarding a particular form in which the principles should eventually be incorporated.

75. Part I. As formulated by the Special Rapporteur, Part I of the draft principles read as follows:

"I. The right of a national to leave his country

"(a) Every national of a country is entitled, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, to leave his country, temporarily or permanently.

"(b) No one shall be forced to renounce his nationality, as a condition for the exercise of the right to leave his country; nor shall he be deprived of his nationality as a consequence of his leaving the country.

"(c) The conditions prescribed by law or administrative regulations for the exercise of this right shall be the same for all nationals of a country.

"(d) The right of every national to leave his country shall not be subject to any restrictions except those provided by law, which shall be only such as are reasonable and necessary to protect national security, public order, health, or morals, or the rights and freedoms of others.

"(e) No deposit or other security shall be required to ensure the repatriation or return of any national.

"(f) Currency or other economic controls shall not be used as a means of preventing any national from leaving his country.

"(g) Any national prevented from leaving his country because of non-compliance with obligations towards the State, or towards another person, shall be allowed to make reasonable arrangements for satisfying those obligations.

"(h) Any national who wishes to leave his country permanently is entitled to sell his property and to take the proceeds thereof as well as his personal effects with him either at the time of his departure or within a reasonable period thereafter, subject only to the satisfaction of his local obligations."

76. Amendments to Part I were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.269), Mr. Santa Cruz (E/CN.4/Sub.2/L.272), Mr. Abram (E/CN.4/Sub.2/L.271 and 275), Mr. Krishnaswami (E/CN.4/Sub.2/L.276), Mr. Ketrzynski (E/CN.4/Sub.2/L.277), Mr. Capotorti (E/CN.4/Sub.2/L.278), and Mr. Santa Cruz (E/CN.4/Sub.2/L.282/Rev.1). Mr. Ingles submitted a proposal for an additional paragraph to be added to Part I (E/CN.4/Sub.2/L.283).

77. In paragraph (a) of Part I, Mr. Abram proposed the addition of a new sentence reading: "No distinction shall be made on the ground of marital status."

78. In paragraph (b), Mr. Calvocoressi proposed to add (E/CN.4/Sub.2/L.269):

"unless, being a naturalized citizen, he has shown by the shortness of his residence in the country of his adoption and by the length of his continuous absence therefrom an intention to renounce his citizenship."

79. Mr. Capotorti proposed (E/CN.4/Sub.2/L.278) insertion of the word "solely" between the words "nationality" and "as".

80. Mr. Abram proposed (E/CN.4/Sub.2/L.271) to insert "arbitrarily" before "deprived" and to add a new sentence at the end to read: "Everyone shall have the right to renounce his nationality."

81. In paragraph (d), Mr. Calvocoressi proposed (E/CN.4/Sub.2/L.269) insertion of "reasonable" before "restrictions", and deletion of "reasonable and" in the third line of the text, in order to bring the paragraph into line with article 12 (3) of the draft covenant on civil and political rights. Mr. Santa Cruz proposed (E/CN.4/Sub.2/L.272) to replace the text of paragraph (d) with the following:

"The right of every national to leave his country shall in no case be exercised contrary to the purposes and principles of the United Nations. It shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of public order (ordre public), morality and the general welfare in a democratic society. Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations."

82. Mr. Abram proposed (E/CN.4/Sub.2/L.271) the addition of a new sentence to read: "Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations."

83. In paragraph (e), Mr. Abram proposed (E/CN.4/Sub.2/L.271) to add at the end: "Nor shall any other measure be taken for this purpose."

84. Mr. Krishnaswami proposed the amendment of paragraph (f) to read as follows (E/CN.4/Sub.2/L.276):

"Economic controls or currency restrictions imposed with a view to safeguarding the national economy should not be abused for discriminating against groups or individuals who wish to travel abroad, or for denying anyone the right to leave any country, including his own, and to return to his country."

85. Mr. Ketrzynski proposed (E/CN.4/Sub.2/L.277) to replace the words "used as a means of" by the words "aimed at ...".

86. In paragraph (h), Mr. Calvocoressi proposed (E/CN.4/Sub.2/L.269) the insertion at the beginning of the words "Subject to the limitations imposed by a State's balance of payments".

87. Mr. Abram proposed (E/CN.4/Sub.2/L.271) the addition of a new paragraph to read:

"In accordance with the Universal Declaration of Human Rights, no one shall be denied the right to leave his country in order to seek asylum from persecution."

88. Mr. Santa Cruz proposed to add the following text at the end of the paragraph (E/CN.4/Sub.2/L.282/Rev.1):

"This includes the right to leave any country in order to seek asylum from persecution. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations."

Mr. Ingles withdrew his proposal for an addition paragraph in favour of Mr. Santa Cruz's proposal.

89. After a discussion of the various amendments, the Special Rapporteur submitted to the Sub-Commission a revised proposal for Part I, incorporating the amendments which he had accepted (E/CN.4/Sub.2/L.281). Subsequently, after further discussion, he accepted the revised amendment to Principle I (a) submitted by Mr. Santa Cruz (E/CN.4/Sub.2/L.282/Rev.1), as well as oral amendments to paragraphs (e), (g), and (h).

90. The revised proposal was voted on in parts.

91. Paragraph (a), including the new text accepted by the Special Rapporteur, was adopted unanimously. Paragraphs (b) and (c) were adopted unanimously. An amendment to paragraph (d) by Mr. Santa Cruz, to delete the words "national security" and "health", and to add the term "ordre public" in parentheses after the words "public order" was rejected, receiving 4 votes in favour and 6 against, with 1 abstention. Paragraph (d) was adopted unanimously. Paragraph (e) was adopted unanimously. Paragraphs (f), (g) and (h) were adopted by 9 votes in favour and none against, with 2 abstentions. Part I, as a whole, was adopted unanimously.

92. Part II. As formulated by the Special Rapporteur, Part II of the draft principles read as follows:

"II. The right of a national to return to his country

"(a) Everyone is entitled, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, to return to his country.

"(b) No one shall be arbitrarily deprived of his nationality or forced to renounce his nationality as a means of divesting him of the right to return to his country.

"(c) The right of everyone to return to his country shall not be subject to any arbitrary restrictions."

93. Amendments to Part II were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.269) and Mr. Abram (E/CN.4/Sub.2/L.271).

94. In paragraph (a), Mr. Calvocoressi proposed (E/CN.4/Sub.2/269) to insert the word "own" before the word "country". However, he did not press this amendment. Mr. Calvocoressi also proposed the substitution of the text of article 12 (4) of the draft covenant on civil and political rights for the text of paragraph (c).

95. Mr. Abram proposed (E/CN.4/Sub.2/L.271) the addition of a new paragraph to Part II, to read as follows:

"A passport or other travel document properly issued shall be respected by his own and by other Governments as evidence of the bearer's right to return to his country."

96. After discussion of the various amendments, the Special Rapporteur submitted to the Sub-Commission a revised proposal for Part II, incorporating the amendments which he had accepted (E/CN.4/Sub.2/L.285).

97. The text of Part II, as revised, was adopted unanimously.

98. Part III. As formulated by the Special Rapporteur, Part III of the draft principles read as follows:

"III. The right of a foreigner to leave the country

"(a) Every foreigner, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, has the right to leave the country of his sojourn.

"(b) Every foreigner legally within the territory of a country shall not be accorded lesser rights than a national in the exercise of his right to leave that country.

"(c) The right of every foreigner to leave the country of his sojourn shall not be subject to any arbitrary restrictions.

"(d) No foreigner shall be prevented from seeking the diplomatic assistance of his own country in order to ensure the enjoyment of his right to leave the country of his sojourn."

99. Amendments to Part III were submitted by Mr. Calvocoressi (E/CN.4/Sub.2/L.269), Mr. Abram (E/CN.4/Sub.2/L.271), Mr. Ketrzynski (E/CN.4/Sub.2/L.277), and Mr. Capotorti (E/CN.4/Sub.2/L.278).

100. Mr. Calvocoressi proposed (E/CN.4/Sub.2/L.269) to add to paragraph (a) the following: "subject only to any reasonable restrictions provided by law and necessary to protect national security, public order, health or morals, or the rights and freedoms of others".

101. Mr. Ketrzynski proposed (E/CN.4/Sub.2/L.277) to add at the end of paragraph (a) the following: "This right shall not be subject to any arbitrary restrictions". He further proposed the deletion of paragraphs (b) and (d).

102. Mr. Abram proposed (E/CN.4/Sub.2/L.271) the addition of a new paragraph in Part III, the text of which was subsequently revised to read:

"(e) Nothing in these principles shall be deemed to derogate from the rights of a protected person to leave the territory of a belligerent power under the provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949."

103. Mr. Capotorti suggested the following amendments to the principle:

- (a) In the title, insert the words "or stateless person" between the word "foreigner" and "to leave".
- (b) In paragraph (a), first line, insert the words "or stateless person" between the words "foreigner" and "without". (This amendment does not apply to the English text.)
- (c) Delete paragraph (b).
- (d) In paragraph (c), which would become paragraph (b), replace the words "The right of every foreigner to leave the country of his sojourn" by the words: "The exercise of the right of every foreigner to leave the country of his sojourn."

104. After a discussion of the various amendments, the Special Rapporteur submitted to the Sub-Commission a revised proposal for Part III (E/CN.4/Sub.2/L.285), incorporating the amendments which he had accepted. Subsequently, after further discussion, he accepted the amendment submitted by Mr. Abram in a revised form.

105. The revised proposal was voted on in parts. A vote was first taken on Mr. Ketrzynski's amendment (E/CN.4/Sub.2/L.277), which the Special Rapporteur had not accepted. The amendment was rejected, receiving 2 votes in favour and 4 against, with 4 abstentions. Paragraph (a) was adopted unanimously. Paragraph (b) was adopted by 9 votes in favour and none against, with 2 abstentions. Paragraph (c) was adopted unanimously. Paragraph (d) was adopted by 9 votes in favour and none against, with 2 abstentions. The amendment proposed by Mr. Abram, to add a paragraph (e), was adopted by 8 votes in favour and none against, with 3 abstentions. Part III, as a whole, was adopted unanimously.

106. Part IV. As formulated by the Special Rapporteur, Part IV of the draft principles read as follows:

"IV. Travel documents

"(a) Every national of a country is entitled, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, to apply for and receive such travel documents as passport, identity card, visa or other certificate as he may require to leave his country or to return to his country.

"(b) The formalities for the issuance of any travel document, including the grounds for its denial, withdrawal or cancellation, shall be provided by law. Regulations implementing the law shall also be published or communicated to the applicant.

"(c) The issuance of any travel document shall not be subject to unreasonable costs or taxes."

107. An amendment to Part IV was proposed by Mr. Abram (E/CN.4/Sub.2/L.271), to add at the end of paragraph (c) the following: "and no one shall be arbitrarily denied such documents."

108. Mr. Ketrzynski orally suggested that paragraph (c) should be amended to read:

"No discrimination shall be practiced in respect of the formalities to be complied with by a national in order to obtain the documents necessary to exercise his right to leave his country, in accordance with the principles proclaimed in Part I."

109. Mr. Saario orally suggested that paragraph (c) should be amended to read as follows:

"(c) The conditions prescribed by law or administrative regulations for the exercise of this right including the right to receive necessary travel documents, shall be the same for all nationals of a country. The formalities for such travel documents shall be made publicly known and the issuance of such documents shall not be subject to unreasonable costs or taxes."

110. After a discussion of the amendment and suggestions, the Special Rapporteur submitted to the Sub-Commission a revised proposal for Part IV, incorporating the changes which he had accepted (E/CN.4/Sub.2/L.288).

111. The revised proposal was adopted by 9 votes in favour and none against, with 2 abstentions.

112. Part V. As formulated by the Special Rapporteur, Part V of the draft principles read as follows:

"V. Fair hearing and recourse to independent tribunals

"(a) Everyone denied a travel document or permission to leave the country or to return to his country is entitled to a fair hearing. In particular, he shall have the possibility of presenting evidence on his own behalf, of disputing evidence against him and of having witnesses examined. The hearing shall be public except when compelling reasons or national security or the personal interests of the applicant require otherwise.

"(b) The decision of the competent authorities to grant, deny, withdraw or cancel the required permission or travel document shall be made and communicated to the individual concerned within a reasonable and specified period of time.

"(c) If the required travel document or permission is denied, withdrawn or cancelled, the reasons for the decision shall be clearly stated to the individual concerned.

"(d) In case of denial, withdrawal or cancellation of the required permission or travel document, the aggrieved individual shall have the right of appeal to an independent and impartial tribunal."

113. Amendments to Part V were submitted by Mr. Matsch (E/CN.4/Sub.2/L.273), Mr. Krishnaswami (E/CN.4/Sub.2/L.276), Mr. Ketrzynski (E/CN.4/Sub.2/L.277), and Mr. Juvigny (E/CN.4/Sub.2/L.279).

114. Mr. Matsch proposed (E/CN.4/Sub.2/L.273) the deletion of the final sentence of paragraph (a). Mr. Ketrzynski proposed (E/CN.4/Sub.2/L.277) to replace the phrase "independent and impartial tribunal" in paragraph (d) by "independent and impartial tribunal or other body".

115. Mr. Juvigny proposed (E/CN.4/Sub.2/L.279) to replace the text of Part V by the following:

"(a) Everyone with respect to whom a travel document or permission to leave or to return to his country is granted, denied, withdrawn or cancelled shall be informed of the decision within a reasonable and specified period of time.

"(b) Except where such document or permission is granted unconditionally, the reasons for the decision shall be clearly stated and communicated to the individual concerned.

"(c) The individual concerned shall have the right of recourse to the public authorities through the administrative channel and the further right of appeal, either in person or through or with the assistance of counsel, to an independent tribunal.

"(d) The individual concerned shall be entitled to a fair hearing. He shall have the possibility of presenting any evidence on his own behalf and of disputing evidence against him. The hearing shall be public, except when compelling reasons of national security or the personal interests of the applicant require otherwise."

116. Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.276) to amend Part V to read:

"Where anyone is denied a travel document or permission to leave the country or return to his country, he shall be entitled:

"(a) To be given the reasons for such denial, except when considerations of national security preclude such disclosure;

"(b) To appeal to such authority as the State may by law provide, which should, subject to considerations of fair hearing, decide on it expeditiously."

117. After a discussion of the amendments, the Special Rapporteur submitted to the Sub-Commission a revised proposal for Part V, incorporating the changes which he had accepted (E/CN.4/Sub.2/L.288). After some further discussion of section (b) (ii) of the revised proposal, the Special Rapporteur revised that section to read:

"(ii) to a fair hearing by an independent and impartial tribunal, which shall examine all relevant evidence and decide the case expeditiously."

118. Mr. Ketrzynski proposed, as an amendment to the revised section, to add the words "or body" after the word "tribunal". The proposal was accepted by 6 votes in favour and 1 against, with 3 abstentions. The principle as a whole, as amended, was adopted by 10 votes in favour and none against, with 1 abstention.

119. Part VI. As formulated by the Special Rapporteur, Part VI of the draft principles read as follows:

"VI. Application of principles

"These principles shall apply to all independent countries as well as to Trust, Non-Self-Governing or other countries under any limitation of sovereignty."

120. Mr. Ivanov orally proposed deletion of the text following the word "countries". This amendment was rejected, receiving 2 votes in favour and 4 against, with 5 abstentions. The principle as a whole was adopted by 9 votes in favour and none against, with 2 abstentions. Later the principle was renumbered and became Part VII.

Additional principle relating to sanctions

121. Mr. Abram proposed the adoption of an additional principle, reading as follows (E/CN.4/Sub.2/L.286):

"No sanction, penalty, punishment or reprisal shall attach to any person for the effort to exercise the right to leave any country, including his own, or to return to his own country as proclaimed in these principles."

122. In the light of the discussion of this proposal, Mr. Abram revised the text to read: "No sanction, penalty, punishment or reprisal shall attach to any person for exercising or attempting to exercise the right to leave any country, including his own, or to return to his country, in accordance with these principles."

123. The revised principle was adopted by 9 votes in favour and none against, with 2 abstentions. The Sub-Commission decided that it would become Part VI of the draft principles.

Additional principle relating to conditions favouring the exercise of the right

124. Mr. Ketrzynski proposed the adoption of an additional principle on "general requirements for the enjoyment of the right of everyone to leave any country, including his own, and to return to his country" (E/CN.4/Sub.2/L.270), reading as follows:

"The full and complete enjoyment of the right of everyone to leave any country, including his own, depends primarily on the general well-being of each society as a whole.

"(a) It is essential, therefore, to ensure, by means of an equitable distribution of goods within each society, that the enjoyment of this right does not become in fact the monopoly of an economically privileged minority.

"(b) Political tensions in the world and discrimination in international economic relations seriously restrict opportunities for the full enjoyment of the right of everyone to leave any country, including his own, and to return to his country.

"It is important, therefore, to intensify efforts, nationally and internationally, in accordance with the principles of the United Nations Charter, for peaceful co-operation with respect to political and economic relations among peoples, in order to create an atmosphere favourable to the free movement of persons from country to country."

125. Mr. Santa Cruz proposed an amendment to the text put forward by Mr. Ketrzynski (E/CN.4/Sub.2/L.289). After the proposal and the amendment had been discussed, Mr. Santa Cruz revised his amendment to read as follows:

"The full and complete enjoyment of the right of everyone to leave any country, including his own, depends in many instances on the general well-being of each society as a whole and on the existence of a vigorous economy within a just social and international order conducive to friendly relations between peoples.

"It is necessary, therefore, through national efforts and the free movement of persons from country to country, to create conditions permitting increased and free movement of persons from country to country, which is affected, in practice, by international tensions and by the continued existence of conditions of economic and social under-development which make it difficult for this right to be exercised by all, including the common man."

126. Mr. Ketrzynski accepted the amendment submitted by Mr. Santa Cruz, who joined Mr. Ketrzynski as co-sponsor of that text.

127. Mr. Juvigny proposed that the words "the free and intensified movement of persons" should be substituted for the words "increased and free movement of persons". The proposal was rejected, receiving 3 votes in favour and 3 against, with 5 abstentions. The text proposed jointly by Messrs. Ketrzynski and Santa Cruz was adopted by 10 votes in favour and none against, with 1 abstention, as Part VIII of the principles. It was agreed that the principle would be entitled: "Conditions Favouring the Free and Increased Movement of Persons from One Country to Another."

128. Preamble. As formulated by the Special Rapporteur, the Preamble of the draft principles read as follows:

"Whereas the peoples of the United Nations have in the Charter solemnly reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and expressed their determination to promote social progress and better standards of life in larger freedom;

"Whereas the Charter declares that it is one of the purposes of the United Nations to promote and encourage universal respect and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion;

"Whereas the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, and irrespective of the political, jurisdictional or international status of the country or territory to which one belongs;

"Whereas the right of everyone to leave any country, including his own, and to return to his country enshrined in the Declaration is an indispensable condition for the full enjoyment by all of other civil, political, economic, social and cultural rights;

"Whereas the free and untrammelled exercise of this right is a sure means of fomenting mutual understanding, co-operation and beneficial exchanges among the peoples of the world so that they may practice tolerance and live together in peace as good neighbours;

"Whereas this right can only be effectively guaranteed when formally acknowledged in national law consistent with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights;

"Now therefore, the following principles are hereby proclaimed as of universal application to ensure recognition and enjoyment of the right of everyone to leave any country, including his own, and to return to his country and other related rights, and to prevent discrimination in respect of these rights:".

129. Amendments to the preamble were proposed by Mr. Abram (E/CN.4/Sub.2/L.271 and 275), and Mr. Krishnaswami (E/CN.4/Sub.2/L.276).

130. Mr. Abram proposed (E/CN.4/Sub.2/L.275) that in paragraph 4, the words "indispensable condition" should be replaced by "essential protection"; and that in paragraph 5 the words "is a sure means of fomenting mutual understanding" should be replaced by "should be recognized as an important means of encouraging mutual understanding". Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.276) that paragraph 5 should be replaced by the following:

"Whereas the free and untrammelled exercise of this right, including the right to seek, receive and impart information and ideas through any media and regardless of frontiers, is an essential condition for promoting mutual understanding and co-operation among the peoples of the world so that they may live together in peace as good neighbours;".

131. The Special Rapporteur accepted the proposal made by Mr. Krishnaswami and the substance of the amendment of Mr. Abram to paragraph 4. The amendment to paragraph 5, proposed by Mr. Abram, was not pressed to a vote.

132. After a discussion the Special Rapporteur revised the draft preamble by the addition of a new seventh paragraph, reading as follows:

"Whereas national efforts to protect this right would be a useful contribution to peaceful co-operation among nations creating an international and social order in which all human rights and freedoms may be fully realized;".

133. The preamble, as revised by the Special Rapporteur, was adopted unanimously.

134. The principles, as amended and revised, were adopted by 10 votes to none, with 1 abstention. They appear in the annex to resolution 2 (XV), below.

Consideration of draft resolution on the study

135. A draft resolution on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, was submitted by Mr. Abu Rannat, Mr. Krishnaswami, Mr. Matsch and Mr. Santa Cruz

(E/CN.4/Sub.2/L.293). In Part A of the draft resolution it was proposed that the Sub-Commission should express its deep appreciation to the Special Rapporteur for his valuable and devoted work on the study, and congratulate him warmly on his final report; that it should express its gratitude to the States Members of the United Nations and of the specialized agencies, to the Commission on the Status of Women, and to the non-governmental organizations concerned, for their collaboration; and that it should transmit the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion in the fifteenth session of the Sub-Commission, for its early consideration; that it should also transmit to the Commission the draft principles drawn up by the Sub-Commission; and that it should decide to retain the subject of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, as an item on its agenda, in order that it might keep in touch with the efforts made to eradicate such discrimination.

136. In Part B, it was proposed that the Sub-Commission should request the Commission on Human Rights to recommend to the Economic and Social Council, firstly, to express its appreciation to the Special Rapporteur for his valuable study; secondly, to request the Secretary-General to print the study and to circulate it as widely as possible; and thirdly, to urge Governments Members of the United Nations and of the specialized agencies (a) to take into consideration the information and conclusions contained in the study, to be guided by the principles drawn up by the United Nations in this matter both in their internal policies and in their collaboration with other States, and to take as soon as possible all necessary measures to ensure the carrying out of these principles; and (b) to continue and if necessary to accentuate their efforts designed to eliminate all discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country.

137. In Part C, it was proposed that the Secretary-General should be requested to make arrangements for the Special Rapporteur to attend the nineteenth session of the Commission on Human Rights, opening in Geneva on 11 March 1963, when his report would be considered.

138. In Part D, it was proposed that the Sub-Commission should decide to transmit the Special Rapporteur's report, and the draft principles adopted by the Sub-Commission at its fifteenth session, to the International Technical Conference to

make Recommendations on International Travel and Tourism, to be held in Rome in August-September 1963; and should urge the Conference to take the report and the draft principles into account, as far as possible, in its deliberations. Two members of the Sub-Commission disagreed with their colleagues' evaluation of the study, and pointed out that because they considered it to contain distorted information and to infringe in some respects upon the sovereign competence of States, they could not support its transmission to higher bodies, or its publication. They also thought that the draft principles needed further improvement, so that they would not contradict the fundamental principles of the United Nations Charter.

139. The co-sponsors of the draft resolution revised its text in some particulars after a general discussion in the Sub-Commission.

140. The draft resolution was voted on in parts. The first part of the first operative paragraph of Part A, to the words "and congratulates him", was adopted by 9 votes in favour and none against, with 1 abstention. Part A as a whole was adopted by 8 votes in favour and none against, with 2 abstentions. The first operative paragraph of Part B was adopted by 8 votes in favour and none against, with 2 abstentions. The second operative paragraph was adopted by 8 votes in favour and 2 against. The third operative paragraph was adopted unanimously. Part B as a whole was adopted by 8 votes in favour and none against, with 2 abstentions. Part C was adopted by 9 votes in favour and none against, with 1 abstention. Part D was adopted by 8 votes in favour and none against, with 2 abstentions.

141. The Sub-Commission adopted the draft resolution as a whole, as revised by the co-sponsors, by 8 votes in favour and none against, with 2 abstentions, as follows:

RESOLUTION 2 (XV)

STUDY OF DISCRIMINATION IN RESPECT OF THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, Having considered the final report (E/CN.4/Sub.2/220) on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, presented by the Special Rapporteur, Mr. José D. Ingles,

/...

A

1. Expresses its deep appreciation to the Special Rapporteur for his valuable and devoted work on the study and congratulates him warmly for his final report;

2. Expresses its gratitude to the States Members of the United Nations and of the specialized agencies, to the Commission on the Status of Women and to the non-governmental organizations concerned, for their collaboration;

3. Transmits the Special Rapporteur's report to the Commission on Human Rights, together with the summary records of the discussion at the present session of the Sub-Commission, for its early consideration;

4. Transmits also to the Commission the draft principles annexed to this resolution, in the belief that the formulation of international and regional instruments based upon these principles and their adoption by States Members of the United Nations and of the specialized agencies would be a fitting culmination to the study;

5. Decides to retain the subject of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, as an item on its agenda, in order that it may keep in touch with the efforts made to eradicate such discrimination and consider what measures, if any, should be recommended in the national and international fields.

B²/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

2/ The financial implications of this resolution are set out in annex I.

"The Economic and Social Council,

"Considering that one of the most effective ways of combatting discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, is through efforts on an international scale,

"Considering that the Commission on Human Rights' triennial reporting procedure provides a suitable framework within which progress achieved and difficulties encountered in combatting such discrimination can be reported,

"Taking into account the important contribution made by the study submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities by its Special Rapporteur,

"1. Expresses its appreciation to the Special Rapporteur, Mr. José D. Ingles, for his valuable study;

"2. Requests the Secretary-General to print and circulate as widely as possible the study prepared by the Special Rapporteur;

"3. Urges Governments Members of the United Nations and of the specialized agencies:

"(a) To take into consideration the information and conclusions contained in the study, to be guided by the principles drawn up by the United Nations in this matter, both in their internal policies and in their collaboration with other States and to take as soon as possible all necessary measures to ensure the carrying out of these principles;

"(b) To continue and if necessary to accentuate their efforts designed to eliminate all discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country."

3/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering it highly desirable that the Special Rapporteur be present in the Commission on Human Rights when the report on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, is considered,

Requests the Secretary-General to make arrangements for the Special Rapporteur to attend the nineteenth session of the Commission on Human Rights, opening in Geneva on 11 March 1963.

3/ The financial implications of this resolution are set out in annex I.

D

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Requests the Commission on Human Rights to recommend to the Economic and Social Council the adoption of the following draft resolution:

"The Economic and Social Council,

"Recalling its resolution 870 (XXXIII), by which it confirmed its decision to call an international technical conference to make recommendations on international travel and tourism, and decided that the Conference should be held in Rome in August-September 1963,

"Considering that the draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fifteenth session after examining the report on this subject prepared by the Sub-Commission's Special Rapporteur, Mr. José D. Ingles (E/CN.4/Sub.2/220) should be taken into account by the Conference in its deliberations,

"Decides to transmit the Special Rapporteur's report, and the draft principles on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, adopted by the Sub-Commission at its fifteenth session, to the Conference, and to urge the Conference to take the report and the draft principles into account, as far as possible, in its deliberations."

ANNEX

DRAFT PRINCIPLES ON FREEDOM AND NON-DISCRIMINATION IN RESPECT OF
THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN,
AND TO RETURN TO HIS COUNTRY

Preamble

Whereas the peoples of the United Nations have in the Charter solemnly reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and expressed their determination to promote social progress and better standards of life in larger freedom;

Whereas the Charter declares that it is one of the purposes of the United Nations to promote and encourage universal respect and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion;

Whereas the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, and irrespective of the political, jurisdictional or international status of the country or territory to which one belongs;

Whereas the right of everyone to leave any country, including his own, and to return to his country, enshrined in the Declaration, is essential for the protection of the full enjoyment by all of other civil, political, economic, social and cultural rights;

Whereas the free and untrammelled exercise of this right, including the right to seek, receive and impart information and ideas through any media and regardless of frontiers, is an essential condition for promoting mutual understanding and co-operation among the peoples of the world so that they may live together in peace and good neighbours;

Whereas this right can only be effectively guaranteed when formally acknowledged in national law consistent with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights;

Whereas national efforts to protect this right would be a useful contribution to peaceful co-operation among nations aimed at creating an international and social order in which human rights and fundamental freedoms may be fully realized;

Now therefore, the following principles are hereby proclaimed as of universal application to ensure recognition and enjoyment of the right of everyone to leave any country, including his own, and to return to his country, and other related rights, and to prevent discrimination in respect of these rights:

I. The right of a national to leave his country

(a) Every national of a country is entitled, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, marriage or other status, to leave his country, temporarily or permanently. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

(b) No one shall be forced to renounce his nationality as a condition for the exercise of the right to leave his country; nor shall anyone be denied the right to leave his country because he wishes to renounce his nationality; nor shall he be deprived of his nationality solely as a consequence of his leaving the country.

(c) The conditions prescribed by law or administrative regulations for the exercise of this right shall be the same for all nationals of a country.

(d) The right of every national to leave his country shall in no case be exercised contrary to the purposes and principles of the United Nations. This right shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of national security, public order, health or morals and the general welfare in a democratic society. Any limitation which may be imposed shall not be aimed at destroying the right and shall be consistent with the purposes and principles of the United Nations.

(e) No deposit or other guarantee, financial or otherwise, shall be required to ensure the repatriation or return of any national.

(f) Economic controls or currency restrictions imposed with a view to safeguarding the national economy shall not be abused to deny any national the right to leave his country.

(g) No national shall be prevented from temporarily leaving his country because of pending obligations towards the State or another person, provided he gives reasonable guarantees for satisfying those obligations.

(h) Subject only to the satisfaction of his local obligations, any national who wishes to leave his country permanently is entitled to take with him his property or the proceeds thereof within the limits allowed by national laws governing the disposition of property and the export of currency.

II. The right of a national to return to his country

(a) Everyone is entitled, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, marriage or other status, to return to his country.

(b) No one shall be arbitrarily deprived of his nationality or forced to renounce his nationality as a means of divesting him of the right to return to his country.

(c) No one shall be arbitrarily deprived of the right to enter his own country.

(d) No one shall be denied the right to return to his own country on the ground that he has no passport or other travel document.

III. The right of a foreigner (which term includes stateless person) to leave the country

(a) Every foreigner, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, birth, marriage or other status, has the right to leave the country of his sojourn.

(b) Every foreigner legally within the territory of a country shall have at least the same rights and guarantees, under the same conditions as a national, in the exercise of the right to leave the country.

(c) The exercise of the right of every foreigner to leave the country of his sojourn shall not be subject to any arbitrary restrictions.

(d) No foreigner shall be prevented from seeking the assistance and protection of his own country in order to ensure the enjoyment of his right to leave his country of his sojourn.

(e) Nothing in these principles shall be deemed to derogate from the right of a protected person to leave the territory of a belligerent power under the provisions of the Geneva Convention Relative to the Protection of Civilian Persons in time of War of 12 August 1949.

IV. Travel documents

(a) No one shall be arbitrarily denied such travel documents as may be required for him to leave the country or to return to his country, which documents shall not be subject to unreasonable costs or taxes.

(b) The formalities for the issuance of any travel document, including the conditions for its denial, withdrawal or cancellation, shall be provided by law or regulations which shall be made public.

V. Fair hearing and administrative and judicial recourse

(a) Anyone who applies for a travel document, or permission to leave the country or to return to his country, shall be informed of the decision within a reasonable and specified period of time.

(b) Where the document or permission is denied, or is withdrawn or cancelled, he shall be entitled:

- (i) to be given the reasons for the decision;
- (ii) to a fair hearing by an independent and impartial tribunal or body which shall examine all relevant evidence and decide the case expeditiously.

VI. Sanctions

No sanction, penalty, punishment or reprisal shall attach to any person for exercising or attempting to exercise the right to leave any country, including his own, or to return to his country, as proclaimed in these principles.

VII. Application of principles

These principles shall apply to all independent countries as well as to Trust, Non-Self-Governing and other countries under any limitation of sovereignty.

VIII. Conditions favouring the free and increased movement of persons from one country to another

(a) The full and complete enjoyment of the right of everyone to leave any country, including his own, depends in many instances on the general well-being of each society as a whole and on the existence of a vigorous economy within a just social and international order conducive to friendly relations between peoples.

(b) It is necessary, therefore, through national efforts and through dynamic international co-operation, to create conditions permitting free and increased movement of persons from country to country, which is affected, in practice, by international tensions and by the continued existence of conditions of economic and social under-development which make it difficult for this right to be exercised by all, including the common man.

VII. STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

Item 7 of the agenda

Introduction

142. At the 379th to 381st meetings, the Sub-Commission considered item 7 of its agenda, "Study of discrimination against persons born out of wedlock".

143. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/223) submitted by the Special Rapporteur, Mr. V.V. Saario, in accordance with resolution 5 (XIV) of the Sub-Commission. The report was divided into three chapters, preceded by an introduction and followed by two annexes.

144. In the Introduction, the Special Rapporteur outlined the procedure which he intended to follow in the preparation of the study. In chapter I he reviewed the earlier consideration of the problem of persons born out of wedlock by various organs and bodies of the United Nations. In chapter II he presented his views with reference to the orientation of the study, and in chapter III he indicated how he intended to collect the data required for use in the study. In annex I he submitted, for consideration by the Sub-Commission, the Outline which he had prepared for the collection of information. In annex II he summarized the earlier consideration of the position of persons born out of wedlock by the League of Nations and the International Labour Office.

145. In introducing the report, Mr. Saario recalled that in many countries of the world persons born out of wedlock are the victims of discrimination as regards their legal as well as their social status. The person born out of wedlock is often scorned and sometimes bears, throughout his life, a stigma for something which is not his fault. A few countries have succeeded in abolishing all discrimination based upon birth. Others are attempting to remove discrimination progressively, while at the same time safeguarding the rights of persons born in wedlock and preserving the sanctity of the family. Still others are reluctant to deal with the matter.

146. Mr. Saario indicated that he had taken as a basis for the study paragraph 2 of article 25 of the Universal Declaration of Human Rights, which provides that "All children, whether born in or out of wedlock, shall enjoy the same social protection". He had also considered, as providing a basis for equality in rights

of all persons whether born in or out of wedlock, the provisions of articles 2, 7, 29 and 30. Moreover, he had borne in mind the Declaration of the Rights of the Child, adopted by the General Assembly at its fourteenth session on 20 November 1959, which proclaims in Principle 1 that "All children, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family."

147. Mr. Saario drew the Sub-Commission's particular attention to annex I of the report, consisting of an Outline for the collection of information for the study. After the Outline had been examined by the Sub-Commission, he intended to transmit it to Governments and to other possible sources of information with a request that they supply as much data as possible.

General debate

148. In the general debate, several members of the Sub-Commission joined in thanking the Special Rapporteur for his work. He was commended for having dealt with a delicate and complex problem with courage and for having prepared a succinct and constructive report which placed in its proper perspective the problem of discrimination against persons born out of wedlock.

149. Several members pointed out that the subject selected for study was an exceedingly difficult one, and that indeed some of the problems encountered by persons born out of wedlock appeared to be insoluble. Others recalled that earlier studies of various aspects of the problem by the League of Nations, the International Labour Office, and the United Nations, had led to inconclusive results. The suggestion was made that the Special Rapporteur should consider the desirability of confining his efforts to the preparation of a comprehensive summary of all the work accomplished to date with respect to discrimination against persons born out of wedlock, and not endeavour to collect new data on the problem at this stage; such a summary would provide useful information which would assist in co-ordinating the work of various United Nations bodies interested in the problem. The view was also expressed that the question of discrimination against persons born out of wedlock was more appropriate for study by the Social Commission or by the Commission on the Status of Women than by the Sub-Commission.

150. It was pointed out that the study, unlike others initiated by the Sub-Commission, would examine discrimination on a particular ground - birth - in respect of a whole series of rights, and would deal with the social as well as the legal aspects of such discrimination. Some members warned against any tendency to broaden the study beyond the rights proclaimed in the Universal Declaration of Human Rights, and referred in particular to the possibility that the Special Rapporteur might deal with "inheritance rights" which were not included in the Declaration. Others warned that it would be extremely difficult, if not impossible, to secure accurate information on the de facto situation existing in many countries. Still others however expressed the view that as much information as possible, with reference to every aspect of the problem, should be collected by the Special Rapporteur as a preliminary step, and that a final determination as to which data properly fell within the scope of the study should be postponed until all the information available had been thoroughly examined.

151. Several suggestions were made with respect to the scope of the study. It was suggested that the Special Rapporteur should not overlook the measures taken, and those which could be taken, to assist and to protect unmarried mothers as well as their children, including medical care, day nursery facilities and free education. It was also suggested that the Special Rapporteur might usefully study the question of condemnation and punishment by the law of those who insult the dignity of mothers of children born out of wedlock. Another suggestion was that the study should deal with the rights of the unmarried mother in respect of her child, and thus throw light upon the prejudicial position in which children born out of wedlock were placed as a consequence of differences in the rights of their parents. Still another suggestion was that the study should deal, in specific terms, with the right of children born out of wedlock to special measures of social protection, as set out in paragraph 2 of article 25 of the Universal Declaration of Human Rights.

Comments on the Outline

152. Several members of the Sub-Commission commented on the Outline for the collection of information (annex I of the report).

153. Definition. The first paragraph in the Outline read: "Indicate what persons, if any, are considered under the law of the country to be born out of

wedlock." It was suggested that it might also be useful to obtain information on the different categories to which persons born out of wedlock belong, and particularly the special category provided in some countries for children born of adultery. The Special Rapporteur explained that he had assumed that the various sources of information would give complete information concerning persons born out of wedlock and would themselves establish any distinctions which they considered to be necessary.

154. Religion. Paragraph 9 of the Outline read: "Indicate any distinctions made in law as regards the religion of a person born out of wedlock and a person born in wedlock." It was suggested that the question should be clarified, or omitted altogether, as it was difficult to see how the religious status of a person could be connected with his birth in or out of wedlock. It was also suggested that if a reference to religion were to be retained, reference should also be made to other beliefs.

155. Inheritance rights. Paragraph 12 of the Outline read: "Indicate any distinctions made in law between persons born out of wedlock and those born in wedlock as regards inheritance rights." It was suggested that this paragraph should be omitted, inasmuch as the Universal Declaration of Human Rights does not prescribe non-discrimination in respect of "inheritance rights" and also because of the wide-spread feeling that differences between the shares of an estate to which various heirs are legally entitled are not discriminatory in character. On the other hand, it was pointed out that other organs of the United Nations had made useful studies of matters relating to inheritance rights, and that it was quite proper for the Special Rapporteur to collect information on such a matter with a view to determining at a later stage whether or not there was any discrimination.

156. In this connexion the Special Rapporteur explained that any information that could be obtained on the subject of inheritance rights would be of great value since that was a field in which a distinction between legitimate and illegitimate children was often made.

157. Statistical, social and other aspects of the problem. Paragraphs 14 to 17 of the Outline referred to statistical, social and other aspects of the problem of discrimination against persons born out of wedlock.

158. Some members expressed their doubts about the usefulness of the information which would be submitted in response to these paragraphs. Statistical data would be useful only if the figures were truly comparable; normally such data would vary greatly from country to country because of variations in the method of preparing the statistics. Information concerning the factors giving rise to birth out of wedlock and the social status of persons born out of wedlock might also be useful, but on the other hand might tend to give the study a sociological or academic character and thereby detract from its practical usefulness. Other members however supported the inclusion of the paragraphs and considered information of the type envisaged to be essential for the successful completion of the Sub-Commission's task. The Special Rapporteur indicated that in view of the comments which had been made, as well as his own experience in collecting information for the study, he was prepared to combine paragraphs 14, 15 and 16, and to make the resulting text as explicit as possible.

159. Suggestions as to additional paragraphs. Several additions to the Outline were suggested. Reference has been made above to proposals that information should be collected on measures to assist mothers and children born out of wedlock, on penalties which should be imposed on those who insult the dignity of mothers of children born out of wedlock, and on protection of the rights of the unmarried mother in respect of her child. In addition, it was suggested that a paragraph should be added to the Outline relating to the effects on guardianship and custody of recognition of the child born out of wedlock by (1) the father, and (2) the mother; that a new paragraph should be added for the purpose of eliciting information on special measures of social protection for the child born out of wedlock; and that a new paragraph should be added along the following lines:

"Indicate whether such measures as may recently have been taken in law to eliminate various forms of discrimination against persons born out of wedlock, or changes in social attitudes towards this form of discrimination, have affected family stability in any notable ways."

160. The Special Rapporteur, for his part, undertook to review the Outline for the collection of information, taking into account the comments and suggestions which had been put forward, before transmitting it to the various sources of information prescribed in his terms of reference.

Consideration of draft resolution

161. A draft resolution on the study of discrimination against persons born out of wedlock was submitted jointly by Mr. Calvocoressi and Mr. Ketrzynski (E/CN.4/Sub.2/L.268).

162. After the co-sponsors had revised the preambular paragraph and the first and third operative paragraphs in the light of comments made by other members, the draft resolution was adopted unanimously, as follows:

RESOLUTION 3 (XV)

STUDY OF DISCRIMINATION AGAINST PERSONS BORN OUT OF WEDLOCK

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the preliminary report submitted by the Special Rapporteur, Mr. Voitto Saario (E/CN.4/Sub.2/223) on the study of discrimination against persons born out of wedlock,

1. Expresses its grateful appreciation to the Special Rapporteur for his valuable work;
2. Requests the Special Rapporteur to continue his study and to present to the Sub-Commission, at its sixteenth session, a progress report taking into account the views expressed in the debate;
3. Expresses the hope that all Governments Members of the United Nations and of the specialized agencies, specialized agencies, and non-governmental organizations in consultative status will transmit to the Special Rapporteur relevant material as soon as possible.

VIII. REVIEW OF FURTHER DEVELOPMENTS IN THE FIELDS WHICH HAVE ALREADY BEEN
THE SUBJECT OF STUDY OR INQUIRY INITIATED BY THE SUB-COMMISSION

Item 8 of the agenda

163. At its 401st and 402nd meetings, the Sub-Commission examined item 8 of its agenda: "Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission".
164. The Sub-Commission had before it a memorandum submitted by the International Labour Office (E/CN.4/Sub.2/224) reviewing developments since the beginning of 1962 with reference to discrimination in respect of employment and occupation. The memorandum indicated that the Discrimination (Employment and Occupation) Convention, 1958, (No. 111) had been ratified by a further six States Members of the ILO, bringing the total to thirty-eight; and that the Equal Remuneration Convention, 1951, (No. 100) had been ratified by five additional countries, bringing the total number of ratifications to forty-three. The International Labour Office further reported on the adoption of new instruments having a bearing upon the elimination of discrimination in employment and occupation, and on its surveys on the effect given to various relevant conventions in both ratifying and non-ratifying countries.
165. The Sub-Commission also had before it a memorandum submitted by the United Nations Educational, Scientific and Cultural Organization (E/CN.4/Sub.2/228) on its recent activities in combatting discrimination in education, and in the field of race relations. The memorandum indicated that by 20 December 1962 the Convention Against Discrimination in Education had been ratified by eleven States members of UNESCO, and that important steps had been taken to implement this instrument, including the adoption by the General Conference of a Protocol Instituting a Conciliation and Good Offices Commission to Deal with Disputes between States Parties to the Convention. The memorandum also summarized UNESCO's activities in the field of race relations, including research work and the preparation of publications designed to enlighten public opinion on various aspects of the question.
166. The Secretary-General presented to the Sub-Commission a memorandum (E/CN.4/Sub.2/227) reviewing developments since the end of its fourteenth session with respect to discrimination in the matter of religious rights and practices,

discrimination in the matter of political rights, and manifestations of racial prejudice and national and religious intolerance.

167. In addition, the Sub-Commission had before it a statement submitted jointly by the Coordinating Board of Jewish Organizations, the Friends World Committee for Consultation, the International Catholic Child Bureau, the International League for the Rights of Man, the Women's International League for Peace and Freedom, the World Union for Progressive Judaism, and the International Humanist and Ethical Union (E/CN.4/Sub.2/NGO/29).

168. The Sub-Commission had time for only the most perfunctory discussion of this item of its agenda, and was unable to give detailed consideration to any of the documents before it.

169. At the 394th meeting the representative of UNESCO reviewed the measures which that specialized agency had taken in the field of prevention of discrimination. He recalled that UNESCO's General Conference had just taken two very important steps concerning the application of the Convention Against Discrimination in Education: first, the adoption of a Protocol instituting a Conciliation and Good Offices Commission to deal with disputes between States Parties to the Convention; and secondly, the approval of a programme providing for the submission by States Members of periodic reports on the application of the Convention and of the Recommendation Against Discrimination in Education.

170. He pointed out that the question of periodic reports was dealt with in article 7 of the Convention and section VIII of the Constitution of UNESCO. Until now, that provision had been applied only imperfectly and incompletely. The General Conference had specified the form in which the first reports should be made: member States were required to identify the competent authorities to which the recommendations and conventions had been submitted and to state what action such authorities had taken. The General Conference would be called upon to decide upon a plan for further periodic reports in 1964, on the basis of a detailed draft to be prepared by the Director-General with the aid of experts. In this connexion, it is stated, the Director-General would welcome any comments or suggestions from the Sub-Commission which would be useful in the preparation of his report.

171. The Sub-Commission examined a draft resolution proposed jointly by Mr. Matsch and Mr. Saario (E/CN.4/Sub.2/L.290) at its 401st and 402nd meetings, and a draft resolution proposed by Mr. Juvigny (E/CN.4/Sub.2/295) at its 403rd meeting.

172. After Mr. Matsch and Mr. Saario had orally revised their draft resolution in the light of the discussion in the Sub-Commission, it was adopted unanimously, as follows:

RESOLUTION 4 (XV)^{4/}

DRAFT PRINCIPLES RELATING TO DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS AND PRACTICES, AND IN THE MATTER OF POLITICAL RIGHTS

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling that it has submitted to the Commission on Human Rights in 1960 draft principles relating to discrimination in the matter of religious rights and practices, and in 1962 draft principles relating to discrimination in the matter of political rights;

Expresses the hope that the Commission will give its expeditious attention to the consideration of the draft principles in the matter of political rights, bearing in mind also resolution 28 (XV) of the Sub-Commission, on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country.

Requests the Commission to invite the Special Rapporteurs concerned to be present and to participate in its deliberations when draft principles based upon a particular study of the Sub-Commission are to be examined.

173. In the draft resolution submitted by Mr. Juvigny, it was proposed that the Sub-Commission should take note with satisfaction of the adoption of a Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking settlement of any disputes which may arise between States Parties to the Convention Against Discrimination in Education, and that it should express the view that application of the provisions of the Recommendation and Convention Against Discrimination in Education, including the submission of periodic reports by States, constitutes one of the essential elements in the practical application of these international instruments.

174. Some members of the Sub-Commission pointed out that other specialized agencies, including the ILO, had likewise contributed to the prevention of discrimination, and that their activities merited mention in the resolution. They

^{4/} The financial implications of this resolution are set out in annex I.

expressed regret that the Sub-Commission did not have the time to examine the documents before it thoroughly, or to hear a statement by the representative of the International Labour Office. The view was expressed that the Sub-Commission should retain the item on its agenda and examine it more thoroughly at the sixteenth session.

175. After Mr. Juvigny had revised his draft resolution in the light of the discussion in the Sub-Commission, it was adopted unanimously, as follows:

RESOLUTION 5 (XV)

FURTHER DEVELOPMENTS IN RESPECT OF DISCRIMINATION IN EDUCATION
AND DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

The Sub-Commission on Prevention of Discrimination and Protection
of Minorities,

Having received the memorandum submitted by UNESCO on its recent activities in the field of combatting discrimination in education and of race relations (E/CN.4/Sub.2/228) and the memorandum submitted by the International Labour Office on discrimination in respect of employment and occupation (E/CN.4/Sub.2/224); and having heard the statement of the representative of UNESCO;

1. Thanks the Director-General of UNESCO and the Director-General of the ILO for the steps they have taken to inform the Sub-Commission about further measures adopted by their Organizations to prevent discrimination in education and discrimination in employment and occupation;

2. Takes note with satisfaction of the adoption of a Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention Against Discrimination in Education;

3. Considers that the submission of periodic reports by States constitutes one of the essential elements in the practical application of the international instruments adopted by the two specialized agencies mentioned above in the field of discrimination;

4. Decides to retain on its agenda the item: "Review of further developments in the fields which have already been the subject of study or inquiry initiated by the Sub-Commission."

IX. PROTECTION OF MINORITIES

Item 10 of the agenda

176. At its 403rd meeting the Sub-Commission considered item 10 of its agenda: "Protection of Minorities".

177. In connexion with this item the Sub-Commission had before it a memorandum listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups (E/CN.4/Sub.2/221), prepared by the Secretary-General in accordance with resolution 4 (XIV) of the Sub-Commission. The memorandum classified various international instruments protecting minorities, including those placed under the guarantee of the League of Nations and those of the period after the Second World War, under a series of headings including: grants of local autonomy, political representation of minorities, protection of nationality, protection of family law and personal status, use of language, and social, charitable and religious institutions and educational establishments. United Nations documents relating to special protective measures of an international character for ethnic, religious or linguistic groups were listed in an annex.

178. The Sub-Commission examined a draft resolution submitted by Mr. Matsch (E/CN.4/Sub.2/L.299), proposing that it should note the Secretary-General's memorandum with approval and retain the item "Protection of Minorities" on its agenda. In presenting the proposal, Mr. Matsch expressed the view that the various texts referred to in the Secretary-General's memorandum can now be made available to interested parties for guidance and assistance. He also expressed his regret that the Sub-Commission had not had the time for a full discussion of the problem of protection of minorities. He trusted that the item would be included on the agenda of the sixteenth session of the Sub-Commission, and that it would be discussed fully at that time.

179. The draft resolution submitted by Mr. Matsch was adopted unanimously, as follows:

RESOLUTION 6 (XV)

PROTECTION OF MINORITIES

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting with appreciation the memorandum by the Secretary-General "listing and classifying special protective measures of an international character for ethnic, religious or linguistic groups" (E/CN.4/Sub.2/221) as an instructive addition to the "Compilation of the texts of those international instruments and similar measures of an international character which are of contemporary interest and which provide special protective measures for ethnic, religious or linguistic groups" (E/CN.4/Sub.2/214);

Decides that the question of the protection of minorities shall remain on the agenda of the Sub-Commission.

X. DRAFT DECLARATION AND DRAFT CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Item 11 of the agenda

Introduction

180. The General Assembly in resolution 1780 (XVII), adopted at its 1187th plenary meeting on 7 December 1962, requested the Economic and Social Council to ask the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to prepare (a) a draft declaration on the elimination of all forms of racial discrimination, to be submitted to the Assembly at its eighteenth session; and (b) a draft international convention on the elimination of all forms of racial discrimination, to be submitted to the Assembly if possible at its nineteenth session and, in any case, not later than at its twentieth session.

181. The Economic and Social Council, at its resumed thirty-fourth session on 19 December 1962, decided to transmit the General Assembly resolution to the Commission and to the Sub-Commission.

182. The Sub-Commission considered, at its 398th, 399th, 400th and 402nd meetings, item 11 of its agenda: "Draft declaration and draft convention on the elimination of all forms of racial discrimination (General Assembly resolution 1780 (XVII))".

183. The Sub-Commission had before it a working paper submitted jointly by Mr. Capotorti, Mr. Juvigny, Mr. Santa Cruz and Mr. Ketrzynski (E/CN.4/Sub.2/L.292 and Add.1); and draft declarations on the elimination of all forms of racial discrimination submitted by Mr. Abram (E/CN.4/Sub.2/L.287) and Mr. Ketrzynski (E/CN.4/Sub.2/L.291). It decided to use the working paper as a basis of discussion.

184. In the joint working paper (E/CN.4/Sub.2/L.292 and Add.1) it was proposed that the following texts should be included in a draft declaration on the elimination of all forms of racial discrimination:

"Preamble

Considering that the Charter of the United Nations is based on the principle of the equality of all human beings and seeks, among other basic objectives, to achieve international co-operation in encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all those rights and freedoms, without distinction of any kind, such as race, colour, national origin, etc.,

Considering that the Universal Declaration further recognizes that all human beings are entitled to equal protection against any discrimination of that kind and against any incitement to such discrimination,

Considering that, although international action and efforts made in a number of countries have made it possible to achieve progress in that field, discrimination based on race, colour or ethnic origin none the less continue to give cause for very serious concern in certain parts of the world,

Considering that the policy of certain Governments is overtly designed, by means of legislative, administrative or other measures, to establish, maintain or perpetuate racial discrimination, inter alia in the form of apartheid, segregation and separation,

Disturbed, moreover, by the fact that doctrines of racial superiority are tolerated, and even encouraged in certain areas, and that the seeds of discrimination may thus be spread still further,

Considering that acts prompted by feelings of racial superiority or hatred have led in the past and may still lead to expansionism and the subjugation of peoples and, as a result, to breaches of the peace or to acts of aggression prejudicial to the maintenance of international peace and security.

I

1. Any theory of differentiation between races or racial superiority is scientifically false, morally reprehensible, socially unjust and dangerous. Nothing can justify racial discrimination, in theory or in practice.

2. Racial discrimination, in whatever form and irrespective of the individuals or groups against whom it is directed, is an offence against human dignity, a flagrant violation of the Charter of the United Nations and a denial of the fundamental human rights proclaimed by the Universal Declaration.

3. Racial discrimination is a negation of the social nature of man, who can develop his personality to the full only through communication with all his fellow men. Refusal to recognize these bonds linking all men is detrimental to the harmonious development of every national community and may lead to its disintegration.

4. Racial discrimination tends to jeopardize international peace and security, friendly relations among peoples and co-operation between nations.

II

5. Everyone, without distinction as to race, colour or ethnic origin, has the right to take part in the government of his country and to participate in elections by universal and equal suffrage. Appointment to the public service shall be open to all citizens on the basis of merit.

6. Everyone has the right to education, without distinction, exclusion, limitation, preference or segregation based on race, colour, or ethnic origin, since the purpose of education should be the formation of a harmonious society based on full respect for human rights and fundamental freedoms for all.

7. Everyone, without distinction as to race, colour or ethnic origin, has the right to work, to free choice of employment, to favourable and just conditions of work, remuneration and promotion, and to social welfare and social security.

8. Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race, colour or ethnic origin, and no such distinction shall be enforced, permitted, encouraged or perpetuated by any organ of society."

185. The draft declaration on the elimination of all forms of racial discrimination proposed by Mr. Abram (E/CN.4/Sub.2/L.287) read as follows:

"The General Assembly

Desiring to give effect to the principle of the equality of all men and all peoples without distinction as to race, colour, or religion, as stated in the Charter of the United Nations,

Disturbed by the manifestations of racial discrimination still in evidence throughout the world, some of which are imposed by Governments in the form of apartheid, segregation and separation; and likewise by the promotion and dissemination of doctrines of racial superiority and expansionism in certain areas,

Recognizing the Universal Declaration of Human Rights as the great affirmation of the equal dignity and rights of all persons without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status,

Recalling the many resolutions adopted by the General Assembly urging the elimination of all forms of racial discrimination, and particularly resolution 1779 (XVII) which calls on the Governments of all States to take

all necessary steps to rescind discriminatory laws which have the effect of creating and perpetuating racial prejudice wherever they still exist, to adopt legislation if necessary for prohibiting such discrimination, and to take such legislative and other appropriate measures to combat such prejudice;

Declares the following principles as a guide for legislation and practice in each State:

1. No State shall make any distinction in the treatment of persons on the ground of race or ethnic origin, nor shall it make any distinction in the right to citizenship on such grounds;

2. Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race or ethnic origin, and no such distinction shall be enforced, encouraged, perpetuated or permitted by any agency of any State;

3. Everyone, without distinction as to race or ethnic origin, shall have the right to take part in the government of his country and to participate in elections through universal and equal suffrage. Appointment to the public service shall be open to all citizens on the basis of merit;

4. Everyone has the right to an effective remedy, through independent and impartial tribunals, for any discrimination he may suffer on the ground of race or ethnic origin with respect to his fundamental rights and freedoms."

186. The draft declaration on the elimination of all forms of racial discrimination proposed by Mr. Ketrzynski (E/CN.4/Sub.2/L.291) read as follows:

"Whereas the United Nations Charter is based on the principle of the equality of all human beings and has as one of its great aims the achievement of international co-operation by encouraging respect for human rights and for fundamental freedoms without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms, without distinction of any kind, such as race, colour, ethnic origin, etc.,

Whereas the Universal Declaration further recognizes that all human beings are entitled to equal protection against any discrimination of this kind and against any incitement to such discrimination,

Whereas the Declaration on the granting of independence to colonial countries and peoples affirms that an unconditional end must be put to colonialism and all practices of segregation and discrimination,

Whereas a number of colonial countries and territories are characterized by a policy of racial discrimination and segregation,

Whereas racial discrimination is deeply rooted in the political, economic, social and cultural life of certain countries, and racial laws and practices further encourage racial segregation and discrimination in those countries,

Whereas in certain areas racist and neo-fascist organizations are free to pursue their activities and to propagate racist opinions as well as hatred and violence against other peoples or nations, and whereas in certain countries racist and nazi leaders are even endeavouring to seize various positions of power and authority,

Whereas acts inspired by emotions of racial superiority or racial hatred have led, and can lead, to expansionism and to the subjugation of peoples, which has in the past brought about, and can bring about, breaches of the peace and acts of aggression prejudicial to the maintenance of international peace and security,

Whereas the creation of a world free from racism and racial hatred and discrimination is one of the major goals of mankind,

Whereas it is the duty of all States to take steps to put an end to racial discrimination in all its forms and manifestations, thus creating the conditions in which the noble principles and purposes of the United Nations Charter may be realized,

The General Assembly proclaims this Declaration:

ARTICLE 1

Racial discrimination in all its forms and in all its manifestations constitutes a denial of the fundamental human rights, a flagrant violation of the United Nations Charter and an obstacle to the promotion of international peace and co-operation.

ARTICLE 2

Government policies of apartheid and racial discrimination shall immediately be brought to an end.

ARTICLE 3

Everyone, without distinction as to race, colour or ethnic origin, shall have the right to take part in the government of his country and to participate in elections through universal and equal suffrage. Appointment to the public service shall be open to all citizens on the basis of merit.

ARTICLE 4

Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race, colour or ethnic origin, and no such distinction shall be enforced, encouraged or perpetuated by any agency of any State.

ARTICLE 5

National programmes designed to promote racial equality in the political, economic, social and cultural spheres and having as their purpose the complete elimination of all forms of racial discrimination shall be immediately adopted and effectively carried out.

All racial laws and other regulations aimed at provoking or encouraging racial discrimination should be immediately and totally rescinded.

ARTICLE 6

The policy of all States in the field of education shall be directed towards the complete elimination of all forms of racial discrimination.

ARTICLE 7

All the information media of all countries shall dedicate themselves to the prevention of all forms of racial discrimination and shall contribute fully to the complete elimination of racial discrimination.

ARTICLE 8

All propaganda based on the idea of the superiority of one race or group of persons of one colour over another race or group of persons of another colour, or inciting one race or group of persons of one colour to hatred against another race or group of persons of another colour, should be condemned and prohibited.

All political, economic, social or cultural measures likely to encourage discrimination against individuals or groups of a different race, colour or ethnic origin shall likewise be condemned and prohibited.

ARTICLE 9

Racist and neo-fascist organizations and all other organizations propagating racist opinions or engaging in other activities which provoke or encourage racial discrimination shall be prohibited by law and made liable to sanctions.

Racists occupying various positions of power and authority shall be immediately brought to trial for such of their activities as have provoked or encouraged racial discrimination, and if found guilty they shall be immediately dismissed from office.

ARTICLE 10

Racist propaganda in all its forms shall be prohibited as contrary to human dignity and the fundamental rights and freedoms of man, and as prejudicial to the maintenance of international peace and security.

The propagation of racist and fascist opinions and activities should be met with criminal proceedings.

ARTICLE 11

All States shall immediately take all legislative and administrative measures and any other appropriate measures to give effect to this Declaration and to ensure the proper application of all the obligations arising from it.

All States shall co-operate among themselves in a joint effort to eliminate all forms of racial discrimination.

ARTICLE 12

The United Nations shall combat all forms of racial discrimination and take all steps to give effect to this Declaration.

ARTICLE 13

All States which fail to put this Declaration into practice and whose policy continues to provoke or encourage racial discrimination shall be severely condemned by the whole of mankind.

ARTICLE 14

All States shall faithfully and strictly observe the provisions of this Declaration."

Examination of the texts proposed

187. Before examining the working paper prepared by Mr. Capotorti, Mr. Juvigny, Mr. Santa Cruz and Mr. Ketrzynski, the Sub-Commission considered the procedure which it would follow. It was agreed that no attempt should be made at the fifteenth session to prepare the draft of an international convention on the

elimination of all forms of racial discrimination, since the convention was to be submitted only to the nineteenth or twentieth session of the General Assembly. There was no objection to the suggestion that the draft convention on this subject should be prepared at the sixteenth session of the Sub-Commission. It was further agreed that the Sub-Commission should make every effort to reach, as far as possible, the greatest possible measure of agreement on a single document proposing texts to be incorporated in the draft declaration.

188. Several members of the Sub-Commission submitted oral or written amendments to the joint working paper.

189. Mr. Ketrzynski orally proposed revising paragraph 1 to read: "1. Any theory of differentiation or superiority based on considerations of race, colour, or ethnic origin ...".

190. Mr. Ingles orally proposed the redrafting of the second part of the fifth preambular paragraph to read: "... or perpetuate discrimination on grounds of race, colour, or ethnic origin, inter alia in the form of apartheid, segregation and separation".

191. Mr. Krishnaswami proposed (E/CN.4/Sub.2/L.298) to add the following sentence to paragraph 3: "Racial discrimination is injurious not only to those who are the objects of discrimination, but also to those who practice discrimination".

192. Mr. Ivanov orally proposed the addition of a ninth paragraph reading: "Any act aimed at depriving any person of the opportunity to enjoy his civil rights and freedoms on the grounds of race, colour or ethnic origin shall be prohibited by law and punished as a criminal offence".

193. There was some discussion in the Sub-Commission concerning the use of the term "racial discrimination" in Part I of the joint draft, and of the phrase "distinction as to race, colour or ethnic origin" in Part II. It was agreed that the two terms were intended to be synonymous, and that the former was appropriate in Part I which was expressed in broad general terms while the latter was appropriate in Part II which was a more detailed exposition of the conditions necessary for the enjoyment of certain specific rights.

194. Some members questioned the meaning of the term "any organ of society" in Part I, and it was suggested that in this context the State should also be mentioned.

195. At the conclusion of the general debate on the joint working paper, Mr. Capotorti, Mr. Juvigny, Mr. Ketrzynski and Mr. Santa Cruz submitted a revised working paper (E/CN.4/Sub.2/L.292/Rev.1), incorporating a number of amendments suggested by various members of the Sub-Commission. The revised proposal contained a preamble and two parts, and read as follows:

"Preamble

Considering that the Charter of the United Nations is based on the principle of the equality of all human beings and seeks, among other basic objectives, to achieve international co-operation by encouraging respect for human rights and fundamental freedoms for all without distinction of any kind,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all those rights and freedoms, without distinction of any kind, such as race, colour or ethnic origin,

Considering that the Universal Declaration further recognizes that all human beings are entitled to equal protection against any discrimination of that kind and against any incitement to such discrimination,

Considering that, although international action and efforts made in a number of countries have made it possible to achieve progress in that field, discrimination based on race, colour or ethnic origin none the less continues to give cause for very serious concern in certain areas of the world,

Considering that the policy of certain Governments is overtly designed, by means of legislative, administrative or other measures, to establish, maintain or perpetuate racial discrimination, inter alia in the form of apartheid, segregation and separation,

Disturbed, moreover, by the fact that doctrines of racial superiority are tolerated, and even encouraged in certain areas, and that the needs of discrimination may thus be spread atill further,

Considering that acts prompted by feelings of racial superiority or hatred have led in the past and may still lead to expansionism and the subjugation of peoples and, as a result, to breaches of the peace or to acts of aggression prejudicial to the maintenance of international peace and security,

Considering that, in the present circumstances, particular attention should be given to the problems of racial discrimination in the fields of political rights, education, employment and free access to public places and facilities, in view of the fact that their elimination would contribute decisively to the prevention of all other forms of discrimination,

Considering that it is the duty of the United Nations, of States and of all the organs of society to take immediate steps to put an end to racial discrimination in all its forms and all its manifestations and to prevent its reappearance, thus creating the conditions necessary for the full realization of the principles and purposes of the United Nations Charter,

The General Assembly proclaims this Declaration,

I

1. Any theory of differentiation between races or racial superiority is scientifically false, morally reprehensible, socially unjust and dangerous. Nothing can justify racial discrimination, in theory or in practice.

2. Racial discrimination, in whatever form and irrespective of the individuals or groups against whom it is directed, is an offence against human dignity, a flagrant violation of the Charter of the United Nations and a denial of the fundamental human rights proclaimed by the Universal Declaration.

3. Racial discrimination is a negation of the social nature of man, who can develop his personality to the full only through communication with all his fellow men. Refusal to recognize these bonds linking all men is detrimental to the harmonious development of every national community and may lead to its disintegration.

4. Racial discrimination tends to jeopardize international peace and security, friendly relations among peoples and co-operation between nations.

II

5. Everyone, without distinction as to race, colour or ethnic origin, has the right to take part in the government of his country and to participate in elections by universal and equal suffrage. Appointment to the public service shall be open to all citizens on the basis of merit.

6. Everyone has the right to education, without distinction, exclusion, limitation, preference or segregation based on race, colour or ethnic origin, since the purpose of education should be the formation of a harmonious society based on full respect for human rights and fundamental freedoms for all.

7. Everyone, without distinction as to race, colour or ethnic origin, has the right to work, to free choice of employment, to favourable and just conditions of work, remuneration and promotion, and to social welfare and social security.

8. Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race, colour or ethnic origin, and no such distinction shall be enforced, permitted, encouraged or perpetuated by any organ of society."

196. A series of amendments to the working paper was submitted by Mr. Santa Cruz (E/CN.4/Sub.2/L.301), reading as follows:

"1. Revise the eighth paragraph of the preamble to read as follows:

Considering that the studies carried out by the Sub-Commission on Prevention of Discrimination and Protection of Minorities have shown that racial discrimination in the fields of political rights, education, religion, employment and occupation is practised in many countries and that its elimination would contribute decisively towards speeding the disappearance of other forms of discrimination,

2. Delete Part II of the working paper and replace it by the following:

5. No distinction, segregation or discrimination in the matter of human rights, based on consideration of race, colour or ethnic origin, shall be enforced, permitted, encouraged or perpetuated by the State or any other organ of society.

6. Particular attention shall be given to the prevention of discrimination in the fields of political rights, education, religion, employment, occupation, housing and access to public places and facilities, based on race, colour or ethnic origin.

7. Measures shall be speedily taken to (1) abolish, where they exist, laws and practices based on considerations of race or colour, and (2) revise governmental policies and change practices which violate the right of all to enjoy human rights and fundamental freedoms in full equality and which have the effect, in particular, of permitting the perpetuation or development of racial discrimination.

8. These steps shall be taken, in particular, in the field of education, and an important place shall be given to understanding, tolerance and friendship among nations and racial groups, as well as to the purposes and principles of the United Nations and of the Universal Declaration.

9. Special measures for the protection of individuals belonging to certain racial groups as such may be taken with the object of ensuring the full and effective enjoyment by such individuals of human rights and fundamental freedoms; nevertheless, such measures shall not be applied or maintained after the achievement of that objective, and shall in no circumstances have as a consequence the separation of different racial groups.

10. All States shall immediately take all legislative and administrative measures and any other appropriate measures to give effect to this Declaration and to ensure the proper application of all the obligations arising from it.

All States shall co-operate among themselves in a joint effort to eliminate all forms of racial discrimination.

11. The United Nations has a duty to bring to light the forms taken by racial discrimination, the manifestations in which it finds expression and the factors which constitute its origin, with a view to recommending appropriate and effective measures to combat and eliminate it.

12. The United Nations, the specialized agencies, States and non-governmental organizations shall do all in their power to promote an energetic campaign which, combining legal measures and steps of a practical nature, will make possible the abolition of all forms of discrimination, and in particular of all discrimination based on race and colour."

197. Mr. Santa Cruz also proposed (E/CN.4/Sub.2/L.303) the addition of a new article at the end of Part I, reading as follows:

"All propaganda based on the idea of the superiority of one race or group of persons of one colour over another race or group of persons of another colour, or inciting one race or group of persons of one colour to hatred against another race or group of persons of another colour, is condemned.

All political, economic, social or cultural measures likely to encourage discrimination against individuals or groups of a different race, colour or ethnic origin, and the existence and activities of organizations which provoke or encourage such discrimination, are likewise condemned."

198. Mr. Matsch proposed (E/CN.4/Sub.2/L.302) the addition of a third preambular paragraph reading as follows:

"Considering that as these rights involve also the elimination of all forms of racial discrimination, they can only be effectively guaranteed in a world in which the principles enshrined in the Declaration on the granting of independence to colonial countries and peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, shall have full application."

199. In addition, several members of the Sub-Commission suggested amendments orally. With regard to paragraph 5, Mr. Calvocoressi suggested the following wording: "All citizens may be appointed to the public service or elected to public office without distinction as to race, colour or ethnic origin". Mr. Ivanov

suggested that that paragraph should read: "All citizens, without distinction of race, colour, or ethnic origin, may be elected or appointed to public office;" he was, however, prepared to accept the wording of Mr. Calvocoressi if the Sub-Commission did not approved his text. Mr. Krishnaswami proposed the addition of the following to the second sentence to paragraph 5: "on an objective and impartial basis; during a transitional period special preference should be shown in particular to victims of past discrimination and disabilities, bearing in mind considerations of merit".

200. With regard to paragraph 6, Mr. Abram proposed that it be revised in part to read: "since education should encourage the formation of a harmonious society ...". Mr. Ivanov proposed that the following sentence should be added at the end of paragraph 6: "No person shall, on grounds of race, colour or ethnic origin, be refused the right to enter an educational establishment at any level and to study there".

201. Mr. Ketrzynski proposed the addition of a ninth paragraph reading: "No distinction, segregation, or discrimination with respect to human rights on the basis of race, colour or ethnic origin shall be declared, enforced, permitted, encouraged or perpetuated by the State or by any organ of society". Mr. Ketrzynski further suggested that the fourth and seventh paragraphs of his draft resolution (E/CN.4/Sub.2/L.291) should be inserted into the preamble, after the third and fifth paragraphs, respectively.

202. The Sub-Commission's attention was drawn to the fact that the rights mentioned in paragraphs 5, 6 and 7 of Part II had already been dealt with in international instruments, from the Universal Declaration of Human Rights to the conventions and recommendations concerning discrimination in education and employment and occupation adopted by UNESCO and the ILO respectively. In this connexion it was explained that the enumeration of rights in Part II was not intended to be exhaustive. Certain rights had been stressed because of their special importance, and in particular because the elimination of discrimination in the fields mentioned would contribute to the elimination of all other forms of discrimination. However, several members persisted in the view that the adoption of new principles in these particular areas, which in some cases might represent a retreat from the principles set out in the Declaration of Human Rights or from the principles which had been prepared by the Sub-Commission at the conclusion of its detailed studies, would only lead to confusion.

203. After various members of the Sub-Commission had expressed their views on the proposal of Mr. Ketrzynski to add to the preamble a reference to the Declaration on the Granting of Independence to Colonial Countries and Peoples, there was general agreement that some reference should be made to this important document. Mr. Matsch proposed that a paragraph be inserted in the preamble reading as follows: "Whereas these rights can only be effectively guaranteed in a world in which the principles of the Charter, in particular the principle of self-determination, and the principles set forth in the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, shall have full application".

204. At the conclusion of the discussion of the revised joint working paper and the amendments thereto, the Chairman invited all members of the Sub-Commission to join in an informal working group which would endeavour to prepare a single unified text to which all could agree. The working group subsequently submitted to the Sub-Commission the text of a draft declaration on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/L.304).

205. A number of drafting changes, proposed by various members of the Sub-Commission, were accepted without objection. In addition, the Sub-Commission agreed to the insertion, as paragraph 12 of the draft declaration, a text which had been proposed originally by Mr. Abram (E/CN.4/Sub.2/L.287, para. 4), relating to the right to an effective remedy for any discrimination in respect to fundamental rights and freedoms suffered on the ground of race, colour, or ethnic origin.

206. Mr. Ingles proposed to add, at the end of former paragraph 12, the words: "including legislation if necessary to prohibit all forms of racial discrimination". The amendment was rejected, receiving 5 votes in favour and 6 against.

207. The draft declaration as a whole, as amended, was adopted unanimously. It is reproduced below in the annex to resolution 7 (XV).

Consideration of draft resolution

208. Mr. Santa Cruz submitted a draft resolution relating to the draft declaration on the elimination of all forms of racial discrimination (E/CN.4/Sub.2/L.305), in which he proposed that the Sub-Commission should submit the declaration to the Commission on Human Rights.

209. Mr. Ivanov suggested that the draft declarations submitted to the Sub-Commission by Mr. Abram and Mr. Ketrzynski should also be submitted formally to the Commission. It was agreed that such formal submission was unnecessary, inasmuch as the Sub-Commission had been able to agree unanimously upon a single text which incorporated suggestions made by each of its members, but that the texts referred to would be reproduced in full in the Sub-Commission's report. Mr. Ivanov accordingly did not press his suggestion.

210. The draft resolution submitted by Mr. Santa Cruz was adopted unanimously, after its author had accepted several amendments made orally by members of the Sub-Commission, as follows:

RESOLUTION 7 (XV)

DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting that in accordance with resolution 1780 (XVII), adopted by the General Assembly at its 1187th plenary meeting on 7 December 1962, the Economic and Social Council has asked the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission, to prepare a draft declaration on the elimination of all forms of racial discrimination to be submitted to the Assembly for consideration at its eighteenth session;

Submits to the Commission on Human Rights the draft declaration on the elimination of all forms of racial discrimination annexed to this resolution, which it adopted unanimously, together with the summary records of the debate in the Sub-Commission (E/CN.4/Sub.2/SR.398-402).

ANNEX

DRAFT DECLARATION ON THE ELIMINATION OF ALL
FORMS OF RACIAL DISCRIMINATION

Preamble

Considering that the Charter of the United Nations is based on the principle of the equality of all human beings and seeks, among other basic objectives, to achieve international co-operation by encouraging respect for human rights and fundamental freedoms for all without distinction of any kind,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all those rights and freedoms, without distinction of any kind, such as race, colour or ethnic origin,

Considering that as these rights involve also the elimination of all forms of racial discrimination, they can only be effectively guaranteed in a world in which the principles enshrined in the Declaration on the granting of independence to colonial countries and peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, shall have full application,

Considering that the Universal Declaration further recognizes that all human beings are entitled to equal protection against any discrimination of that kind and against any incitement to such discrimination,

Considering that, although international action and efforts made in a number of countries have made it possible to achieve progress in that field, discrimination based on race, colour or ethnic origin none the less continues to give cause for serious concern in certain areas of the world,

Considering that the policy of certain Governments is overtly designed, by means of legislative, administrative or other measures, to establish, maintain or perpetuate racial discrimination, inter alia in the form of apartheid, segregation and separation,

Disturbed, moreover, by the fact that doctrines of racial superiority are tolerated, and even encouraged in certain areas, and that the seeds of discrimination may thus be spread still further,

Considering that acts prompted by feelings of racial superiority or hatred have led in the past and may still lead to expansionism and the subjugation of peoples and, as a result, to breaches of the peace or to acts of aggression prejudicial to the maintenance of international peace and security,

Considering that the studies carried out by the Sub-Commission on Prevention of Discrimination and Protection of Minorities have shown that racial discrimination in the fields of political rights, education, religion, employment and occupation is practised in many countries and that its elimination would contribute decisively towards speeding the disappearance of other forms of discrimination,

Considering that it is the duty of the United Nations, of States, and of all the organs of society to take immediate steps to put an end to racial discrimination in all its forms and all its manifestations and to prevent its reappearance, thus creating the conditions necessary for the full realization of the principles and purposes of the United Nations Charter,

The General Assembly proclaims this Declaration:

I

1. Any theory of differentiation between races or racial superiority is scientifically false, morally reprehensible, socially unjust and dangerous. Nothing can justify racial discrimination, in theory or in practice.

2. Racial discrimination, in whatever form and irrespective of the individuals or groups against whom it is directed, is an offence against human dignity, a flagrant violation of the Charter of the United Nations and a denial of the fundamental human rights proclaimed by the Universal Declaration. Racial discrimination is injurious not only to those who are the objects of discrimination but also to those who practise discrimination.

3. Racial discrimination is a negation of the social nature of man, who can develop his personality to the full only through interaction with his fellows. The denial at any point of this social bond between man and men is detrimental to the harmonious development of every national community and brings with it disintegration.

4. Racial discrimination tends to jeopardize international peace and security, friendly relations among peoples and co-operation between nations.

5. All propaganda based on the idea of the superiority of one race or group of persons of one colour or ethnic origin, and all incitement to hatred against any race or group of persons of another colour or ethnic origin, is condemned.

6. All political, economic, social or cultural measures which discriminate or encourage discrimination against individuals or groups of a different race, colour or ethnic origin, and the existence and activities of organizations which provoke or encourage such discrimination, are likewise condemned.

II

7. No distinction, segregation or discrimination in the matter of human rights, based on considerations of race, colour or ethnic origin, shall be enforced, permitted, encouraged or perpetuated.

8. Particular efforts shall be made to prevent discrimination based on race, colour or ethnic origin, in the fields of political rights, education, religion, employment, occupation, housing and access to places and facilities intended for use by the general public.

9. Measures shall be speedily taken to abolish, where they exist, laws and regulations based on considerations of race, colour or ethnic origin, and to revise governmental policies and change social practices which violate the right of all to enjoy human rights and fundamental freedoms in full equality and which have the effect, in particular, of permitting the perpetuation or development of racial discrimination.

10. Immediate steps shall be taken, in particular, in the fields of education and information, with a view to promoting understanding, tolerance and friendship among nations and racial groups, as well as propagating the purposes and principles of the United Nations and of the Universal Declaration.

11. Special measures for the protection of individuals belonging to certain racial groups may be taken with the object of ensuring the full and effective enjoyment by such individuals of human rights and fundamental freedoms; nevertheless, such measures shall not be maintained after the achievement of that objective, and shall in no circumstances have as a consequence the separation of different racial groups.

12. Everyone has the right to an effective remedy, through independent and impartial tribunals, against any discrimination he may suffer on the ground of race, colour, or ethnic origin with respect to his fundamental rights and freedoms.

13. All States shall immediately take all legislative, administrative and any other appropriate measures to give effect to this Declaration.

14. The United Nations has a duty to discover and disclose the forms taken by racial discrimination, the manifestations in which it finds expression and the factors which constitute its origin, with a view to recommending appropriate and effective measures to combat and eliminate it.

15. The United Nations, the specialized agencies, States and non-governmental organizations shall do all in their power to promote an energetic campaign which, combining legal measures and steps of a practical nature, will make possible the abolition of all forms of discrimination, and in particular of all discrimination based on race, colour and ethnic origin.

XI. DRAFT DECLARATION AND DRAFT CONVENTION ON THE ELIMINATION OF ALL
FORMS OF RELIGIOUS INTOLERANCE

Item 12 of the agenda

211. The General Assembly in resolution 1781 (XVII), adopted at its 1187th plenary meeting on 7 December 1962, requested the Economic and Social Council to ask the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to prepare (a) a draft declaration on the elimination of all forms of religious intolerance, to be submitted to the Assembly at its eighteenth session; and (b) a draft international convention on the elimination of all forms of religious intolerance, to be submitted to the Assembly if possible at its nineteenth session, and, in any case, not later than at its twentieth session. In the preamble of the resolution the General Assembly noted that the Commission on Human Rights is preparing draft principles on freedom and non-discrimination in the matter of religious rights and practices.

212. The Economic and Social Council, at its resumed thirty-fourth session on 19 December 1962, decided to transmit the General Assembly resolution to the Commission and to the Sub-Commission.

213. The Sub-Commission considered, at its 401st meeting, item 12 of its agenda: "Draft declaration and draft convention on the elimination of all forms of religious intolerance (General Assembly resolution 1781 (XVII))".

214. The Sub-Commission had before it a draft resolution submitted by Mr. Santa Cruz (E/CN.4/Sub.2/L.296), on the preparation of a draft declaration on the elimination of all forms of religious intolerance. It did not consider the question of a draft convention on the elimination of all forms of religious intolerance inasmuch as this draft was to be submitted to the General Assembly only at its nineteenth or twentieth session.

215. In the draft resolution, Mr. Santa Cruz proposed that the Sub-Commission should express the view that the draft principles on freedom and non-discrimination prepared by the Sub-Commission and currently under examination by the Commission on

Human Rights contain the basic elements which should be included in a draft declaration on the elimination of all forms of religious intolerance, and that the Sub-Commission should urge the Commission to take special measures to complete its examination of these draft principles at the nineteenth session in order that a draft declaration on the elimination of all forms of religious intolerance might be submitted to the General Assembly for consideration at its eighteenth session.

216. In submitting the draft resolution, Mr. Santa Cruz recalled that the Sub-Commission, at its twelfth session in 1960, had prepared and transmitted to the Commission on Human Rights draft principles on freedom and non-discrimination in the matter of religious rights and practices (E/CN.4/800, resolution 1 (XII)). These principles had been formulated after the Sub-Commission had examined the study on discrimination in the matter of religious rights and practices prepared by its Special Rapporteur, Mr. Arcot Krishnaswami. The Commission had been unable to complete the examination of the draft principles at its eighteenth session in 1962, and had decided in resolution 11 (XVIII) to continue consideration of those principles at its nineteenth session.

217. All members of the Sub-Commission expressed their general approval of the draft resolution. In their view, the Sub-Commission had already studied all aspects of freedom and non-discrimination in the matter of religious rights, and had put its views before the Commission in the form of draft principles. Re-examination of these principles revealed that little or nothing of substance could be added to them, although it might be possible to suggest further measures by which they might be implemented.

218. It was made clear by several members that they attached equal importance to the question of the elimination of religious intolerance and the question of the elimination of racial discrimination. They hoped that the fact that the Sub-Commission had drafted principles against discrimination in the matter of religious rights several years before drafting principles against racial discrimination would not be taken as an indication that they considered one problem greater or more urgent than the other. Other members emphasized the immediate importance and urgency of the elimination of all forms of racial discrimination, without minimizing the need for implementing the principle of freedom of thought, conscience and religion.

219. Some members pointed out that the draft principles on freedom and non-discrimination in the matter of religious rights which the Sub-Commission had adopted in 1960 contained several principles directly linked to the question of religious intolerance. At the same time they recalled that at the time the principles had been examined by them, objection had been raised to use of the term "tolerance", it being felt that more was needed than mere toleration.

220. Some members questioned whether the Sub-Commission was in a position to urge its parent body, the Commission on Human Rights, to hasten its consideration of the draft principles. Others however were of the view that the sense of urgency implicit in General Assembly resolution 1781 (XVII) should be drawn to the Commission's attention. Moreover, some members recalled with regret that new manifestations of religious intolerance had occurred since the Sub-Commission had adopted the draft principles.

221. The draft resolution submitted by Mr. Santa Cruz (E/CN.4/Sub.2/L.296) was adopted unanimously, as follows:

RESOLUTION 8 (XV)

DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS
OF RELIGIOUS INTOLERANCE

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting General Assembly resolutions 1779 (XVII), on manifestations of racial prejudice and national and religious intolerance, and 1781 (XVII), on the preparation of a draft declaration and a draft convention on the elimination of all forms of religious intolerance,

Noting further that, in accordance with resolution 1781 (XVII), the Economic and Social Council has asked the Commission on Human Rights, bearing in mind inter alia the views of the Sub-Commission, to prepare a draft declaration on the elimination of all forms of religious intolerance, to be submitted to the Assembly for consideration at its eighteenth session,

Recalling that the Sub-Commission at its twelfth session in 1960, after having examined the study on discrimination in the matter of religious rights

and practices prepared by its Special Rapporteur, Mr. Arcot Krishnaswami, prepared and transmitted to the Commission on Human Rights draft principles on freedom and non-discrimination in the matter of religious rights and practices (E/CN.4/800, resolution 1 (XII)),

Recalling further that the Commission on Human Rights was unable to complete the examination of the draft principles at its eighteenth session in 1962, and decided in resolution 11 (XVIII) to continue consideration of those principles at its nineteenth session,

1. Expresses the view that the draft principles on freedom and non-discrimination, prepared by the Sub-Commission and currently under examination by the Commission on Human Rights, contain the basic elements which should be included in a draft declaration on the elimination of all forms of religious intolerance;

2. Urges the Commission to take special measures to complete its examination of these draft principles at the nineteenth session in order that a draft declaration on the elimination of all forms of religious intolerance might be submitted to the General Assembly for consideration at its eighteenth session as requested by the Assembly in resolution 1781 (XVII).

XII. ADOPTION OF THE REPORT OF THE SUB-COMMISSION
TO THE COMMISSION ON HUMAN RIGHTS

Item 13 of the agenda

222. The Sub-Commission considered the draft report of its fifteenth session (E/CN.4/Sub.2/L.274 and Add.1-6) at its 404th meeting, on 1 February 1963, and adopted this report, as orally revised by the Rapporteur, unanimously.

ANNEX I

Statement of Financial Implications of Resolutions
Adopted by the Sub-Commission

Resolution 1 (XV) - Future Work of the Sub-Commission

1. The Economic and Social Council is requested to approve the decision of the Sub-Commission to undertake a study on equality in the administration of justice in accordance with Article 10 of the Universal Declaration of Human Rights and to appoint a Special Rapporteur for this purpose. The work of Mr. Mohammed Ahmed Abu Rannat (Sudan) in carrying out the study will require a round-trip to Headquarters with a three-week stay in 1963 to prepare a preliminary study and report; a further trip with a four-week stay to prepare the draft report in 1964; and a third trip with a four-week stay to prepare the final report in 1965. No fee will be payable to the Special Rapporteur, whose travel and subsistence allowance will amount to a total of \$7,000 in the years 1963-1965.
2. In his annual budget estimates the Secretary-General normally includes provision for the travel to Headquarters of two Special Rapporteurs. Consequently the 1963 appropriations already provide for the travel of Mr. Rannat in that year and similar provision will be made, in accordance with established practice, in the budget estimates for 1964 and 1965.

Resolution 2B (XV) - Study of Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country

1. The Economic and Social Council is called upon to request the Secretary-General to print and circulate as widely as possible the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, prepared by Mr. José D. Ingles, the Special Rapporteur. The cost of printing English, French and Spanish versions of this study is estimated to be \$2,700.
2. The necessary funds for printing the study will be included in the Secretary-General's initial estimates for 1964 (under section 11, chapter III).

Resolution 2C (XV) and Resolution 4 (XV)

1. The Secretary-General is requested, by resolution 2C (XV), to arrange for the Special Rapporteur for the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, to attend the nineteenth session of the Commission on Human Rights. The related costs, covering travel and subsistence, are estimated at \$2,000.
2. The Commission on Human Rights is requested, by resolution 4 (XV), to invite the Special Rapporteur for the study on discrimination in the matter of religious rights and practices, and the Special Rapporteur for the study of discrimination in the matter of political rights to be present and to participate in the Commission's deliberations when draft principles based upon these studies are to be examined.
3. Assuming that the Commission will invite only one Special Rapporteur to a session for the purpose stated, the cost would be approximately \$2,000. It would be the Secretary-General's intention to endeavour to absorb this cost within the existing appropriations for 1963.
4. Should the Commission, however, decide to invite more than one Special Rapporteur to a session, the costs would be correspondingly higher and the Secretary-General would feel constrained to seek the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions under the terms of General Assembly resolution 1862 (XVII) relating to unforeseen and extraordinary expenses for the financial year 1963.

ANNEX II

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION AT
ITS FIFTEENTH SESSION

1. Documents issued in the general series:

- E/CN.4/Sub.2/219 - Provisional Agenda
(Note by the Secretary-General)
- E/CN.4/Sub.2/219/Add.1 - Supplementary List of Items for the
Provisional Agenda of the Fifteenth
Session of the Sub-Commission
- E/CN.4/Sub.2/219/Rev.1 - Revised Provisional Agenda
- E/CN.4/Sub.2/220 - Study of Discrimination in Respect of the
Right of Everyone to Leave any Country,
Including his Own, and to Return to his
Country
(Report submitted by the Special
Rapporteur, Mr. José D. Ingles)
- E/CN.4/Sub.2/221 - Protection of Minorities
(Memorandum by the Secretary-General)
- E/CN.4/Sub.2/222 - Consideration of the Future Work of the
Sub-Commission
(Note by the Secretary-General)
- E/CN.4/Sub.2/223 - Study of Discrimination Against Persons
Born out of Wedlock
(Preliminary report submitted by the
Special Rapporteur, Mr. V.V. Saario)
- E/CN.4/Sub.2/224 - Review of Further Developments in Fields
which have Already Been the Subject of
Study or Inquiry Initiated by the
Sub-Commission:
Discrimination in Respect of Employment
and Occupation
(Memorandum submitted by the
International Labour Office)
- E/CN.4/Sub.2/225 - Draft Declaration and Draft Convention
on the Elimination of All Forms of
Racial Discrimination
(Note by the Secretary-General)

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E/CN.4/Sub.2/226

- Draft Declaration and Draft Convention on the Elimination of All Forms of Religious Intolerance
(Note by the Secretary-General)

E/CN.4/Sub.2/227

- Review of Further Developments in Fields which have Already Been the Subject of Study of Inquiry Initiated by the Sub-Commission:
Discrimination in the matter of religious rights and practices, discrimination in the matter of political rights and manifestations of racial prejudice and national and religious intolerance
(Note by the Secretary-General)

E/CN.4/Sub.2/228

- Review of Further Developments in the Fields which have Already Been the Subject of Study or Inquiry Initiated by the Sub-Commission:
Recent activities of UNESCO in the field of combatting discrimination in education and of race relations
(Memorandum submitted by the United Nations Educational, Scientific and Cultural Organization)

E/CN.4/Sub.2/CR.7

- Non-Confidential List of Communications Concerning Discrimination and Minorities

2. Documents issued in the limited series:

E/CN.4/Sub.2/L.268

- Study of Discrimination Against Persons Born Out of Wedlock
(Mr. P. Calvocoressi and Mr. W. Ketrzynski: draft resolution)

E/CN.4/Sub.2/L.269

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Calvocoressi: amendments to Sections I, II and III of the Draft Principles in respect of the right of everyone to leave any country, including his own, and to return to his country)

E/CN.4/Sub.2/L.270

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ketrzynski: New principle: General requirements for the enjoyment of the right of everyone to leave any country, including his own, and to return to his country)

E/CN.4/Sub.2/L.271

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Abram: Proposals regarding Draft Principles on Freedom and Non-Discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country)

E/CN.4/Sub.2/L.272

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Santa Cruz: amendment to Principle I (d))

E/CN.4/Sub.2/L.273

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Matsch: amendment to Section V (a) of the draft principles)

E/CN.4/Sub.2/L.274 and Add.1-6

- Draft Report of the Fifteenth Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights

E/CN.4/Sub.2/L.275

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Abram: additional amendments to the draft principles)

E/CN.4/Sub.2/L.276

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Krishnaswami: amendments to the draft principles)

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- E/CN.4/Sub.2/L.277
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ketrzynski: amendments to the draft principles)
- E/CN.4/Sub.2/L.278
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Capotorti: amendments to the draft principles)
- E/CN.4/Sub.2/L.279
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Juvigny: amendments to the draft principles)
- E/CN.4/Sub.2/L.280
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Calvocoressi: revised amendment to Principle I (h))
- E/CN.4/Sub.2/L.281
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ingles: Revised proposal for Part I of the draft principles, incorporating accepted amendments)
- E/CN.4/Sub.2/L.282 and Rev.1
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Santa Cruz: amendment to draft Principle I (a))
- E/CN.4/Sub.2/L.283
- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to his Country
(Mr. Ingles: Additional paragraph to draft principles)

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E/CN.4/Sub.2/L.284

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Santa Cruz: Sub-Amendment to the amendment of Mr. Ketrzynski: New principle: General requirements for the enjoyment of the right of everyone to leave any country, including his own, and to return to his country (E/CN.4/Sub.2/L.270))

E/CN.4/Sub.2/L.285

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ingles: Revised proposal for Parts II and III of the draft principles, incorporating accepted amendments)

E/CN.4/Sub.2/L.286

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Abram: new article to be added to the draft principles)

E/CN.4/Sub.2/L.287

- Draft declaration and draft convention on the elimination of all forms of racial discrimination
(Mr. Abram: draft declaration on the elimination of all forms of racial discrimination)

E/CN.4/Sub.2/L.288

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ingles: revised proposal for Parts IV and V of the draft principles, incorporating accepted amendments)

E/CN.4/Sub.2/L.289

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Santa Cruz: amendment to the new principle proposed by Mr. Ketrzynski (E/CN.4/Sub.2/L.270))

E/CN.4/Sub.2/L.290

- Review of Further Developments in Fields which have Already Been the Subject of Study or Inquiry Initiated by the Sub-Commission
(Messrs. Matsch and Saario: draft resolution)

E/CN.4/Sub.2/L.291

- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Ketrzynski: draft resolution on the elimination of all forms of racial discrimination)

E/CN.4/Sub.2/L.292
and Add.1
and Rev.1

- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Working paper on agenda item 11 submitted by Mr. Capotorti, Mr. Juvigny, Mr. Santa Cruz and Mr. Ketrzynski)

E/CN.4/Sub.2/L.293

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Messrs. Abu Rannat, Krishraswami, Matsch and Santa Cruz: draft resolution on the study of discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country)

E/CN.4/Sub.2/L.294

- Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Mr. Ingles: amendment to the draft principles)

E/CN.4/Sub.2/L.295

- Review of Further Developments in the Fields which have Already Been the Subject of Study or Inquiry Initiated by the Sub-Commission
(Mr. Juvigny: draft resolution)

E/CN.4/Sub.2/L.296

- Draft Declaration and Draft Convention on the Elimination of all Forms of Religious Intolerance
(Mr. Santa Cruz: draft resolution on the preparation of a draft declaration on the elimination of all forms of religious intolerance)

- E/CN.4/Sub.2/L.297
- Consideration of the Future Work of the Sub-Commission
(Mr. Abran, Mr. Abu Rannat and Mr. Santa Cruz: draft resolution)
- E/CN.4/Sub.2/L.298
- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Krishnaswami: amendment to the working paper on agenda item 11 (E/CN.4/Sub.2/L.292/Rev.1))
- E/CN.4/Sub.2/L.299
- Protection of Minorities
(Mr. Matsch: draft resolution)
- E/CN.4/Sub.2/L.300
- Measures to be Taken for the Cessation of any Advocacy of National, Racial or Religious Hostility that Constitutes an Incitement to Hatred and Violence, Jointly or Separately
(Mr. Ivanov: draft resolution)
- E/CN.4/Sub.2/L.301
- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Santa Cruz: amendments to the working paper submitted by Mr. Capotorti, Mr. Juvigny, Mr. Santa Cruz and Mr. Ketrzynski)
- E/CN.4/Sub.2/L.302
- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Matsch: amendments to the working paper on agenda item 11 submitted by Messrs. Capotorti, Juvigny, Santa Cruz and Ketrzynski)
- E/CN.4/Sub.2/L.303
- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Santa Cruz: amendment to the working paper submitted by Messrs. Capotorti, Juvigny, Santa Cruz and Ketrzynski)
- E/CN.4/Sub.2/L.304
- Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Text submitted by the Working Group)

- E/CN.4/Sub.2/L.305 - Draft Declaration and Draft Convention on the Elimination of all Forms of Racial Discrimination
(Mr. Santa Cruz: draft resolution)
- E/CN.4/Sub.2/L.306 - Consideration of the Future Work of the Sub-Commission
(Mr. Santa Cruz: draft resolution)
- E/CN.4/Sub.2/L.307 - Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Statement of Financial Implications of resolution 2 (XV) (E/CN.4/Sub.293))

3. Documents issued in the NGO series:

- E/CN.4/Sub.2/NGO/27 - Future Work of the Sub-Commission
(Statement submitted by the Women's International League for Peace and Freedom, a non-governmental organization in consultative status, Category B)
- E/CN.4/Sub.2/NGO/28 - Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including his Own, and to Return to his Country
(Statement submitted by the Co-ordinating Board of Jewish Organizations, International Catholic Migration Commission, International League for the Rights of Man, Pax Romana, Women's International League for Peace and Freedom, World Union of Catholic Women's Organizations and the International Humanist and Ethical Union, non-governmental organizations in consultative status)
- E/CN.4/Sub.2/NGO/29 - Review of Further Developments in the Fields which have Already Been the Subject of Study or Inquiry Initiated by the Sub-Commission
(Statement submitted by the Co-ordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Catholic Child Bureau, International League for the Rights of Man, Women's International League for Peace and Freedom, World Union for Progressive Judaism, and the International Humanist and Ethical Union, non-governmental organizations in consultative status)

E/CN.4/Sub.2/NGO/30

- Future Work of the Sub-Commission
 (Statement submitted by the Consultative Council of Jewish Organizations, International Federation of Women Lawyers, International League for the Rights of Man, Women's International League for Peace and Freedom, World Jewish Congress and the International Humanist and Ethical Union, non-governmental organizations in consultative status)

E/CN.4/Sub.2/NGO/31

- Draft Declaration and Draft Convention on the Elimination of all Forms of Religious Intolerance
 (Statement submitted by the Co-ordinating Board of Jewish Organizations, a non-governmental organization in consultative status)

4. Conference Room Papers:

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Conference Room Paper A: Memoranda submitted by Syria.

Conference Room Paper B: Memorandum submitted by Israel.
